

## **Chapter 98**

### **ZONING**

#### **Article I. In General**

- Sec. 98-1. Title.
- Sec. 98-2. Enacting clause.
- Sec. 98-3. Purpose.
- Sec. 98-4. Definitions.
- Sec. 98-5. Compliance required.
- Sec. 98-6. Location of alcoholic beverage sales restricted.
- Sec. 98-7. Visual barriers obstructing sight line at intersections.
- Sec. 98-8. Private sewer facilities.
- Sec. 98-9. Zoning of businesses involved in multiple categories.
- Sec. 98-10. General prohibitions.
- Secs. 98-11 - 98-30. Reserved.

#### **Article II. Establishment of Districts, Boundaries and Map**

- Sec. 98-31. Districts established.
- Sec. 98-32. Boundaries.
- Sec. 98-33. Official zoning map.
- Sec. 98-34. Classification of new and unscheduled uses.
- Sec. 98-35. Newly annexed territory.
- Secs. 98-36 - 98-60. Reserved.

#### **Article III. District Regulations**

- Sec. 98-61. Pre-development district (PD).
- Sec. 98-62. Single-family residential district (R-1).
- Sec. 98-63. Cluster developments.
- Sec. 98-64. Two-family residential district (R-2).
- Sec. 98-65. Mobile home district (R-3).
- Sec. 98-66. Office and professional district (B-1).
- Sec. 98-67. Neighborhood service district (B-2).
- Sec. 98-68. General business district (B-3).
- Sec. 98-69. Overlay district (B-3 OD).
- Sec. 98-70. Central business district (B-4).
- Sec. 98-71. Industrial district (I-1).
- Sec. 98-72. Old Town Helotes Special District.
- Secs. 98-73 - 98-100. Reserved.

#### **Article IV. Parking Regulations**

- Sec. 98-101. Purpose.
- Sec. 98-102. Number of parking spaces required.
- Sec. 98-103. Computation of number of parking spaces.
- Sec. 98-104. Location of parking spaces; cooperative parking plan.
- Sec. 98-105. Development and maintenance of parking areas.
- Sec. 98-106. Off-street loading regulations.
- Secs. 98-107 - 98-130. Reserved.

## **Article V. Specific City Council Approval Use Permit**

- Sec. 98-131. Authorized uses.
- Sec. 98-132. Development standards.
- Sec. 98-133. Temporary construction buildings and storage areas; temporary subdivision sales offices.
- Sec. 98-134. Temporary development signs.
- Sec. 98-135. Distribution of copies of permit.
- Sec. 98-136. Compliance with permit; expiration of permit.
- Secs. 98-137 - 98-160. Reserved.

## **Article VI. Planned Residential Unit Development**

- Sec. 98-161. Purpose.
- Sec. 98-162. Authorized uses.
- Sec. 98-163. Site plan; procedures.
- Secs. 98-164 - 98-190. Reserved.

## **Article VII. Nonconforming Uses & Structures**

### **Division 1. Nonconforming Uses**

- Sec. 98-191. Continuation of use.
- Sec. 98-192. Change of use.
- Sec. 98-193. Damage and destruction.
- Sec. 98-194. Enlargement.
- Sec. 98-195. Normal maintenance.
- Sec. 98-196. Structural changes.
- Secs. 98-197 - 98-210. Reserved.

### **Division 2. Nonconforming Structures**

- Sec. 98-211. Limitation on regulations.
- Sec. 98-212. Continuance of nonconforming structures.
- Sec. 98-213. Accidental damage to building.
- Sec. 98-214. Obsolescence of structure.
- Sec. 98-215. Determination of replacement costs.
- Sec. 98-216. Alterations.
- Secs. 98-217 - 98-220. Reserved

## **Article VIII. Sexually Oriented Businesses**

- Sec. 98-221. Purpose.
- Sec. 98-222. Definitions.
- Sec. 98-223. Location.
- Sec. 98-224. Administrative procedures.
- Sec. 98-225. Enforcement; penalty; defenses.
- Sec. 98-226. Injunction.
- Secs. 98-227 - 98-250. Reserved.

## **Article IX. Architectural Review By Planning and Zoning Commission**

Sec. 98-251. Objectives.  
Sec. 98-252. Board established; membership; organization; jurisdiction.  
Sec. 98-253. Procedures and review standards.  
Secs. 98-254 - 98-280. Reserved.

## **Article X. Quarry, Sand and Gravel Businesses**

### **Division 1. Generally**

Secs. 98-281--98-300. Reserved.

### **Division 1. Sand and Gravel District (SGD)**

Sec. 98-301. Established; purpose.  
Sec. 98-302. Permitted uses.  
Sec. 98-303. Operating standards.  
Sec. 98-304. Identification of boundaries and surrounding uses; ERZD environmental assessment report.  
Sec. 98-305. Site plan.  
Sec. 98-306. Signs.  
Sec. 98-307. Blasting.  
Sec. 98-308. Asphaltic concrete production.  
Sec. 98-309. Continuation of existing uses.  
Sec. 98-310. Redevelopment after termination of use.  
Secs. 98-311 - 98-330. Reserved.

### **Division 3. Quarry District (QD)**

Sec. 98-331. Established; purpose.  
Sec. 98-332. Permitted uses.  
Sec. 98-333. Operating standards.  
Sec. 98-334. Identification of boundaries and surrounding uses.  
Sec. 98-335. Site plan.  
Sec. 98-336. Signs.  
Sec. 98-337. Blasting.  
Sec. 98-338. Asphaltic concrete production.  
Sec. 98-339. Redevelopment after termination of use.  
Sec. 98-340. Continuation of existing uses.  
Secs. 98-341 - 98-360. Reserved.

## **Article XI. Telecommunication Facilities**

Sec. 98-361. Purpose.  
Sec. 98-362. Definitions.  
Sec. 98-363. Sitting restricted.  
Sec. 98-364. Collocation of additional antennae on existing transmission tower.  
Sec. 98-365. Collocation of antennae on existing buildings, light or utility poles, and water towers.  
Sec. 98-366. Construction of transmission towers.  
Sec. 98-367. Application requirements.  
Sec. 98-368. Standards for transmission towers and antennae.  
Sec. 98-369. Standards for ancillary facilities.  
Sec. 98-370. Variances.

Sec. 98-371. Removal of facilities.  
Sec. 98-372. Maintenance of facilities.  
Sec. 98-373. Fees.  
Secs. 98-374 - 98-400. Reserved.

## **Article XII. Amendments, Rezoning and Variances**

Sec. 98-401. Limitation on amendments; initiation of amendments.  
Sec. 98-402. Authority for changes and amendments.  
Sec. 98-403. Application procedure.  
Sec. 98-404. Application fees.  
Sec. 98-405. Action by Planning and Zoning Commission.  
Sec. 98-406. Request for consideration by City Council; action by City Council.  
Sec. 98-407. Resubmission of petition upon denial.  
Secs. 98-408 - 98-430. Reserved.

## **Article XIII. Board of Adjustment**

Sec. 98-431. Established; applicability of State Law.  
Sec. 98-432. Membership.  
Sec. 98-433. Meetings; election of officers; rules of procedure.  
Sec. 98-434. Jurisdiction; powers.  
Sec. 98-435. Application for special exception.  
Sec. 98-436. Application fees.  
Sec. 98-437. Stay of proceedings.  
Sec. 98-438. Hearing of appeals.  
Sec. 98-439. Court appeal.  
Secs. 98-440 - 98-460. Reserved.

## **Article XIV. Administration and Enforcement**

Sec. 98-461. Building permit and plan requirements.  
Sec. 98-462. Effect of chapter on existing permits, agreements and rights; conflicting regulations.  
Sec. 98-463. Certificate of occupancy.  
Sec. 98-464. Enforcement officials; right of entry.  
Sec. 98-465. Stop orders.  
Sec. 98-466. Penalty; additional remedies.

Appendix A. Schedule of Uses

## **ARTICLE I. IN GENERAL**

### **Sec. 98-1. Title.**

This chapter shall be known as “The City of Helotes, Texas, Zoning Code”.  
(Ord. No. 253, §1 (art. I, §1), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

### **Sec. 98-2. Enacting clause.**

This chapter amends in their entirety Ordinance No. 14, passed and approved July 8, 1982, and any subsequent amendments, Ordinance No. 150, passed and approved April 26, 2001, and Ordinance No. 238, passed and approved June 12, 2003, and any subsequent amendments, also known as former chapter 152 of the City of Helotes Code of Ordinances, through the date this chapter is enacted. (Ord. No. 253, §1 (art. I, §2), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

### **Sec. 98-3. Purpose.**

The zoning regulations and districts as herein established have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, and general welfare of the city. They have been designed to lessen the congestion in the streets; to provide adequate light and air; to prevent the overcrowding of land; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district and its peculiar suitability for the particular uses specified, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city consistent with a comprehensive plan. (Ord. No. 253, §1 (art. I, §3), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

### **Sec. 98-4. Definitions.**

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

*Abutting property.* Property abutting upon a street shall be understood as also abutting property on the other side of the street.

*Accessory building* means a subordinate building with or without separate utilities, the use of which is incidental to and used only in conjunction with the main building. An accessory building shall not be used for habitation or for commercial purposes. An accessory building shall be subject to the Total Lot Coverage Maximum Permitted definition established herein.

When an accessory building is detached from the main building, but connected to the building by a covered breezeway constructed solely for aesthetic attachment purposes, the breezeway shall not be considered part of the detached accessory building. An accessory building, including a covered breezeway, must be architecturally compatible with the main building on the property.

*Agent* means a person authorized by another to act for him; one entrusted with another's business.

*Alley* means a minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

*Alteration*, as applied to a building or structure, means a change or rearrangement in the structural parts or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

*Architecturally Compatible* means that the building and/or structure is constructed of similar exterior building materials and in the same style as the main building / structure, so as to provide an image of continuity in the buildings on a single piece of property.

*Associated Living Quarters (ALQs)* means a subordinate building with or without separate utilities, the use of which is incidental to the main building and used for habitation. ALQs shall not be used for commercial or rental purposes. When an ALQ is detached from the main building, but connected to the building by a covered breezeway constructed solely for aesthetic attachment purposes, the breezeway shall not be considered part of the detached ALQ. ALQs, including covered breezeways, must be architecturally compatible with the main building on the property. An ALQ shall be subject to the Total Lot Coverage Maximum Permitted definition established herein.

*Automobile and motor vehicle sales area* means an open area, other than a street or required automobile parking space, used for the display or sale of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed and sold on the premises.

*Babysitting* means the caring for nine or fewer non-resident children on an irregular basis.

*Billboard* means any sign of advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote for said display.

*Block* means an area within the city enclosed by streets or alleys and occupied by or intended for building.

*Breezeway* means a covered passage one story in height connecting two buildings.

*Buffer zone* means that portion of an open space that separates residential districts from industrial and commercial districts.

*Building* means any enclosed structure erected for the support, shelter, and enclosure of persons, animals, chattels, or moveable property of any kind.

*Building inspector or official* means the legally designated inspection authority of the city, or the authorized representative.

*Building line* means a building limit fixed at a specific distance from the property boundaries of a lot beyond which a structure cannot lawfully extend.

*Building, main*, means an enclosed structure in which is conducted the principal use of the lot on which it is situated.

*Building setback line* means the line within a property defining the minimum horizontal distance between a building and the adjacent street line.

*Carport structures* on residential lots are not included in the definition of garage, private, and are not considered accessory buildings. Moreover, carport structures shall not be subject to the Total Lot Coverage Maximum Permitted definition established herein; however, carport structures shall not exceed 900 square feet in size.

*Certificate of occupancy* means a certificate issued by the building inspector for the use of a building, structure, and/or land complying with the provisions of all applicable city codes, ordinances, and regulations.

*City official* means the legally authorized representative when acting in an official capacity for the city.

*Clinic* means an establishment of offices in which a group of physicians, dentists, or other practitioners of the healing arts, and allied professional assistants, are associated for the purpose of diagnosing and treating ill or injured persons. A clinic may include a medical or dental laboratory, but may not include facilities for providing room or board for patients, nor may a clinic include offices or facilities for veterinarians.

*Club or lodge* means an association of persons for the promotion of some nonprofit common object, as literature, science, politics, good fellowship, and the like, meeting periodically, limited to members.

*Commercial amusement* means any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate of the activity. Commercial amusements include zoos, concerts, carnivals, expositions, miniature golf courses, rodeos, driving ranges, arcades, fairs, exhibitions, athletic contests, tent shows, Ferris wheels, children's rides, roller coasters, skating rinks, ice rinks, traveling shows, bowling alleys, pool parlors, and similar enterprises.

*Commercial semitrailer* means a vehicle without motive power that is designed or used with a motor vehicle, so that some of its weight and the weight of its load rests on or is carried by the motor vehicle, used for the transport of goods, merchandise, persons, or animals for money or other consideration.

*Commercial trailer* means a vehicle without motive power that drawn by a motor vehicle and is designed or used to carry property or passengers on its own structure exclusively and used to transport goods, merchandise, persons, or animals for money or other consideration.

*Commission* means the Planning and Zoning Commission of the city.

*Common access route* means a private way which affords the principal means of access to individual home lots or auxiliary buildings.

*Common property* means a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a "planned unit."

*Comprehensive master plan* means a legal document often in the form of a map and accompanying text adopted by the legal legislative body. The plan is a compendium of its general policies regarding the long-term development of its jurisdiction. It is also called a "general plan" or "city plan."

*Council* means the City Council.

*Court* means an open, unoccupied space bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

*Crosswalk* way means a public right-of-way, six feet or more in width between property lines, which provides pedestrian circulation.

*Cul-de-sac* means a street having but one outlet to another street, and terminated on the opposite end by a vehicular turn-around.

*Dead-end street* means a street, other than a cul-de-sac, with only one outlet.

*District* means a section of the city for which regulations governing the zoning area, height, and use of buildings are uniform.

*Driveway* means a minor entranceway off the common access route within the city, into an off-street parking area.

*Dumpster* means a box constructed of metal or other substantial material with dimensions larger than a length of three feet, a width of three feet, and a depth of four feet used for the purpose of receiving waste and rubbish.

*Easement* means an interest in land granted to the city by the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over and under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

*Enclosed* means enclosed within a building; activity being inside a structure having walls on all sides and a roof overhead.

*Engineer* means a person duly authorized and properly registered under the provisions of the state Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

*Family* means a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

*Farm* means an area of ten acres or more, which is used for the usual farm products such as vegetables, fruit trees, and grain and their storage on the area as well as the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep and including dairy farms with the necessary accessory uses for treating and storing the produce; provided, however, that the operation of such accessory use shall be secondary to the normal activities.

*Fence, eight-foot privacy*, means a visual barrier with no more than five percent open area in the vertical plane constructed to the minimum height of eight feet above the finish grade or the original natural grade whichever is at the higher elevation.

*Fraternal club or lodge* means a membership organization, excepting one whose chief activity is a service customarily carried on as a business and excluding on-premises sale and/or consumption of alcoholic beverages, in the B-1 through B-2 districts. Such use shall be nonprofit and with no retail sales of any nature being permitted.

*Front yard* means an open unoccupied space on a lot facing a street and extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projection thereof other than the projection of the usual steps or eave overhang.

*Frontage* means all property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or, if the street is dead-ended, then all the property abutting on one side between and intersecting street and the dead end of the street.

*Garage, commercial*, means a premise and structure used for housing repair, hire or sale of motor vehicles for remuneration.



*Garage, private*, means an accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles may be a commercial vehicle of not more than two-ton capacity.

*Garden home* means a single-family dwelling unit located on a platted lot that may be separated from the adjoining unit or units by a vertical fire wall (to be constructed in accordance with city codes and ordinances) along the dividing lot line or by a side yard and each such single-family dwelling unit being separate from any other building by space on all sides.

*Gravel pit* means a tract of land used primarily for the extraction of soil, sand, gravel, clay and other similar materials, other than oil or gas, which are processed and sold or used for commercial purposes. This term does not include the excavation or grading necessary for the development of a lot or tract.

*Height, building*, means the vertical dimension measured from the average elevation of the finished lot grade at the front of the building, to the highest point of ceiling of the top story in the case of a flat roof; to the decking of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.

*Home occupation* means any occupation that can be performed at home that does not involve a structural change in the building, that does not require the employment of help, that does not emit an odor or result in noise in excess of the normal residential activities, that does not result in any outdoor visible evidence of the business use other than the permitted signage, and that does not result in more than two additional vehicles at the residence at any one time. A home occupation shall not include beauty shops, beauty culture schools, beauty parlors, auto repair and/or painting shops, or other similar uses.

*Hospital* means an institution or place where sick or injured in-patients are given medical or surgical care either at public (charity) or private expense.

*Hotel/motel* means a building or arrangement of buildings designed and occupied as a temporary abiding place of individuals who are lodged with or without meals, in which the rooms are usually occupied singly for hire, in which there are no provisions for cooking in individual rooms or apartments, and in which there are more than 12 sleeping rooms.

*Kennel* means any lot or premises on which domestic or wild animals are kept.

*Loading space* means a space within the main building or on the same lot therewith providing for the standing, loading or unloading of trucks.

*Lot* means the physical and undivided tract or parcel of land as shown on the duly recorded plat.

*Lot area* means the area of a lot between lot lines, including any portion of an easement which may exist within such lot lines.

*Lot corner* means a lot which has an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curve at the points of the intersection of the side lot lines intersect at an interior angle of at least 135 degrees.

*Lot, double frontage*, means a lot having a frontage on two nonintersecting streets as distinguished from a corner lot.

*Lot, interior*, means a building lot other than a corner lot.

*Lot of record* means a lot which is part of a subdivision, the map of which has been recorded in the office of the county clerk; or a parcel of land, the deed of which was recorded in the office of the county clerk.

*Manufactured structure* means a moveable or portable structure constructed to be towed by a motor vehicle on its own chassis over state roads and highways under special permit, connected to utilities, and designed without a permanent foundation, for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capability, or of two or more units separately towable but designed to be joined into one integral unit. "Manufactured structure" includes any manufactured building, housing or structure not erected on-site. A storage building is not a manufactured structure.

*Mini-storage* means one storage unit with no more than 15 storage units per building, to be used only for storage.

*Mobile home.* See Manufactured structure.

*Mobile home park* means a unified development of mobile homes and travel ownership spaces arranged on a tract of land under single entity ownership, meeting all requirements of this chapter.

*Municipal street* means the entire width of a right-of-way held by the city in fee or by easement or dedication that has a part open for public use for vehicular travel. The term does not include a designated state or federal highway or road or a designated county road.

*Nonconforming use* means the use of land or a building, or a portion thereof, which use does not conform to the use regulations of a district in which it is situated.

*Nursery, day care or kindergarten* means a child care facility which is a state licensed facility operated in accordance with state law that provides care, training, education, custody, treatment or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the service it offers.

*Occupancy* means the use or intended use of the land or building by proprietors or tenants.

*Open spaces* are included in any side, rear or front yard or any unoccupied space of the lot that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves or porches.

*Oversized vehicle* means a motor vehicle, trailer, or boat, which by itself or together with other structure(s) or vehicle(s) attached to it, exceeds 24 feet in length, eight feet in width, or eight feet in height, exclusive of apparatus such as antennas, luggage racks, and mirrors.

*Parking space* means area required for the placing of a common size automobile with sufficient room to enable the vehicle access in and out of the space, minimum size being 180 square feet with minimum width of nine feet.

*Permit* means an official document or certificate issued by the authority having jurisdiction authorizing performance of a specified activity.

*Person* means any natural individual, firm, trust, partnership, association, or corporation.

*Planned residential unit development* means a single planned unit as initially designed; or such a unit as expanded by annexation of additional land area; or a group of continuous planned units, as separate entities or merged into a single consolidated entity.

*Planned unit* means a land area which has individual building sites and common property such as a park, and is designed to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property. The ownership of the common property may be either public or private.

*Plant nursery* means a place where trees, shrubs, or flowering plants are raised from seed or otherwise in order to be transplanted or propagated.

*Plat* means a complete and exact plan for the subdivision of a tract of land into lots for building purposes, which, if approved, may be submitted to the county clerk for recording.

*Plot plan* means a plan showing the use of the land, to include locations of buildings, drives, sidewalks, parking areas, drainage facilities and other structures to be constructed.

*Public parking lot* means any premises used for the purpose of parking motor vehicles for remuneration. No repairs or sales will be permitted on the premises.

*Quarry* means a tract of land used primarily for the extraction of limestone, or other similar materials, but not oil or natural gas, for processing, sale, or use for any purpose. This term does not include the excavation or grading necessary for the development of a lot or tract.

*Radio station or television station* means other than citizens radio service.

*Residence, one-family*, means a detached building having accommodation for and occupied by one family only, being the only structure per lot, except as permitted under Accessory, Associated Living Quarter, and Storage Buildings.

*Residence, two-family*, means a dwelling or group of dwelling on one plat containing separate living units for two families.

*Right-of-way* means the right given to the general public or groups of the general public to utilize, in the future, property or rights of another without compensation of any kind at any time. Utilization when such future time arrives of such right-of-way will be by ordinance, resolution, statute, conveyance of any easement, or through any act of the planning commission, declaring that such right-of-way shall thereafter be utilized by the general public or groups of the general public.

*Sand or gravel pit* means a tract of land used primarily for the extraction of soil, sand, gravel, clay and other similar materials, other than oil or gas, which are processed and sold or used for commercial purposes. This term does not include the excavation or grading necessary for the development of a lot or tract.

*Setback line* means a line which marks the setback distance from the property line, and establishes the minimum required front, side and rear yard space of a building plan.

*Shopping center* means an integrated grouping of commercial activity, primarily of a retail and personal service nature, in a single building complex having the individual establishments joined by a common covered pedestrian mall.

*Sign* means any device or surface on which figures, letters, illustrations, photographs, designs, logos, or outlines and used for such purposes as identification of individuals, partnerships or organizations, advising of products and/or location which is visible to the public. This includes light, banners, and similar devices to attract attention but excludes signs affixed to motor vehicles.

*Single-family residence* means a detached building having accommodation for and occupied by one family only, being the only structure per lot, except as permitted under Accessory, Associated Living Quarter, and Storage buildings.

*Storage building* means a subordinate building without utilities other than electric in a residential zoned district, the use of which is incidental to and used in conjunction with the main building only. A storage building shall be detached from the main building and shall not be used for habitation or for commercial purposes. A storage building must be architecturally compatible with the main building on the property. A storage building shall be subject to the Total Lot Coverage Maximum Permitted definition established herein. A storage building shall not be attached to the main building by a breezeway or other form of attachment. Storage buildings shall not exceed one standard story in height.

A storage building shall not be a portable structure designed to be towed by a motor vehicle on its own chassis.

*Story* means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

*Story, half*, means a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker and his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

*Story, standard*, means one having 11 feet six inches between floors.

*Street* means a public right-of-way which provides primary vehicular access to adjacent land, whether designated as a street, highway, thoroughfare, parkway, avenue, lane, boulevard, road, place, drive or however otherwise designated.

*Street line* means a dividing line between a lot, tract, or parcel of land and a contiguous street.

*Structure* means anything constructed or built, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

*Structure, alterations*, means any change in the supporting member of a building, such as a bearing wall, column, beams or girders.

*Structure, principal*, means the principal structure which fulfills the purpose for which the building plot is intended.

*Total Lot Coverage Maximum Permitted* means the total surface area of a Single-family Residential Zoning District lot that may be covered by accessory buildings, associated living quarters, and storage buildings combined, pursuant to the following:

<b>Lot Size</b>	<b>Lot Coverage Maximum Permitted</b>
½ acre or less	Not more than 800 square feet
Greater than ½ acre	Not more than 1,000 square feet or 3% of lot square footage, whichever is greater

*Townhouse* means a building that has single-family dwelling units erected in a row as a single building on adjoining platted lots, each being separated from the adjoining unit or units by a vertical fire wall (to be constructed in accordance with city codes and ordinances) along the dividing lot line and each such building being separate from any other building by space on all sides.

*Trailer and mobile home sales or rental* means a business venture or enterprise where trailers and mobile homes are sold, rented, leased, or otherwise conveyed from the control or ownership of one party, company or individual to another party, company or individual. "Rental" in this definition means rental for off-premises use and not rental of a trailer or mobile home for use on that site. This definition does not include the rental or sale of a single privately owned existing trailer and mobile home in any zoning district, either in compliance or whose status may be "grandfathered" noncompliance.

*Use* means the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which is it occupied or maintained, and shall include any manner of performance of such activity with respect to the performance standards of this chapter.

*Variance* means a legal deviation of a district zoning regulation whose strict enforcement will result in undue hardship. Pecuniary hardship to the owner, standing alone, shall not be deemed to constitute undue hardship.

*Yard* means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building shall be used.

*Yard, front*, means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

*Yard, rear*, means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies, or unenclosed porches.

*Yard, side*, means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereon.

(Ord. No. 253, §1 (art. I, §4), 4-8-2004; Ord. No. 269, §1, 10-28-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 419, §1, 11-12-2009; Ord. No. 571, §1, 7-9-2015)

#### **Sec. 98-5. Compliance required.**

- (a) No land shall be used and no building shall be erected for or converted to any use other than provided in the regulations prescribed for the district in which it is located, except as hereinafter provided.
- (b) The minimum yards, parking spaces, and open space, including lot area per family, required by the height and area provisions of this chapter for each and every building existing at the time of passage of this chapter or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this chapter for the district in which such lot is located.

(Ord. No. 253, §1 (art. I, §5), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-6. Location of alcoholic beverage sales restricted.**

No business engaged in the sale of alcoholic beverages shall be located within 300 feet of a church, public school, or public hospital. The measurement of the distance shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. (Ord. No. 253, §1 (art. I, §6), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-7. Visual barriers obstructing sight line at intersections.**

No visual barrier, including, but not limited to, fences, hedges, shrubs, weeds, or trees, which obstructs sight lines at elevations between three feet and eight feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded corner, 25 feet from the intersection of the street lines extended. The same sight line limitations shall apply at the intersection of a street property line and edge of driveway or alley pavement except distance from the intersection shall be ten feet. (Ord. No. 253, §1 (art. I, §7), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-8. Private sewer facilities.**

The city, being totally within the county and having no public sewer system, is dependent upon private sewer facilities and the San Antonio Water System (SAWS). All private sewer facilities are subject to the county commission court order titled "Regulating and Licensing of Private Sewer Facilities in Bexar County Subject to the Jurisdiction of Commissioner Court, Bexar County." The provisions of this court order may require minimum lot sizes in excess of those noted elsewhere in this chapter. (Ord. No. 253, §1 (art. I, §8), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-9. Zoning of businesses involved in multiple categories.**

For purposes of zoning, business involved in multiple types or categories of business as identified in this chapter and/or listed in the Schedule of Uses (appendix of this chapter) shall comply with the most restrictive requirements of this chapter pertaining to any of the types or categories of business conducted on the site. (Ord. No. 253, §1 (art. I, §9), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-10. General prohibitions.**

- (a) Parking of oversized vehicles. It shall be unlawful for any person owning or having control of any oversized vehicle, as defined in section 98-4, to park the same upon any municipal street within the PD pre-development district, R-1 single-family residential district, R-2 two-family residential district, or R-3 mobile home residential district at any time. Provided this section shall not apply to the parking of such vehicles for such time as actually necessary to load or unload passengers, freight, or merchandise.
- (b) Parking of commercial trailers and semitrailers.
  - (1) The parking of a commercial semitrailer or trailer on any residentially zoned property is prohibited.
  - (2) The parking of a commercial semitrailer or trailer on a street directly adjacent to a residentially zoned parcel or lot is prohibited.

(3) Exceptions:

- a. A commercial trailer or semitrailer may be temporarily parked in the areas otherwise prohibited for such time as is actually necessary to load or unload passengers, freight or merchandise.
- b. A commercial trailer or semitrailer may be temporarily parked in the areas otherwise prohibited if parked on or directly adjacent to a lot or parcel while a residential unit is under construction on that lot or parcel but in no event for a period of more than 90 days in any consecutive 12-month period. The construction must be pursuant to a valid building permit.
- c. A commercial trailer or semitrailer may be parked in the areas otherwise prohibited if the owner thereof can obtain a permit from the city administrator after the applicant shows the city administrator evidence that the applicant:
  1. Has a mobility impairment; and
  2. Uses the trailer or semitrailer as that person's primary means of transportation.

A permit issued hereunder shall be valid for a term of one year and may be renewable annually upon a re-examination of the facts by the city administrator.

(c) Dumpsters.

- (1) The use and maintenance of a dumpster on any residentially zoned property is prohibited.

(2) Exceptions:

- a. A dumpster may be temporarily used and maintained on property zoned residential during construction activity on a lot or parcel where it is located provided that a valid building permit has been obtained for construction on said lot or parcel and the dumpster is not left on said lot or parcel for a period exceeding 180 days in any consecutive 12-month period.
- b. A dumpster may be temporarily used and maintained on property zoned residential for a period not to exceed 31 consecutive days in any consecutive 12-month period.

- (3) The board of adjustments is authorized to grant one extension of not more than 180 days for the use and maintenance of a dumpster upon a showing by the applicant of a good faith effort to complete the construction of a residence and accessory structures within said extension period. The applicant for such an extension shall pay the board of adjustment fee prior to the hearing.

(Ord. No. 253, §1 (art. I, §10), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

Secs. 98-11 - 98-30. Reserved.

## **ARTICLE II. ESTABLISHMENT OF DISTRICTS, BOUNDARIES AND MAP**

### **Sec. 98-31. Districts established.**

The city is divided into types of districts as follows:

- PD, Pre-Development District.
- R-1, Single-Family Residential District.
- R-2, Two-Family Residential District.
- R-3, Mobile Home District.
- B-1, Office and Professional District.
- B-2, Neighborhood Service District.
- B-3, General Business District.
- B-3 OD, General Business/Residential Overlay District.
- B-4, Central Business District.
- I-1, Industrial District.
- OTHSD, Old Town Helotes Special District.
- Cluster Development.

(Ord. No. 253, §1 (art. II, §1), 4-8-2004; Ord. No. 269, §2, 10-28-2004; Ord. No. 310, §1, 6-22-2006; Ord. No. 387, §1. 12-8-2008)

### **Sec. 98-32. Boundaries.**

The boundaries of these districts are indicated upon the zoning map of the city, which is on file in the offices of the city and made a part of this chapter, the same as if copied in full herein. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- (4) Boundaries indicated as following shorelines of creeks shall be construed to following such shorelines; and in the event of their movement, the boundaries shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the center lines of streams, river, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (5) Boundaries indicated as following railroad lines shall be construed to be midway between the rails of the main line.
- (6) In unsubdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.



- (7) In the case of a district boundary line dividing a property into two parts, the property will remain divided until the property owner, firm, or corporation petitions the City Council for rezoning.
- (8) Whenever any street, alley or other public way is vacated by official action of the City Council the zoning district adjoining each side of such street, alleys or other public way shall be automatically extended to the center of such vacation and shall then henceforth be subject to all regulations of the extended districts.

(Ord. No. 253, §1 (art. II, §2), 4-8-2004; Ord. No. 387, §1. 12-8-2008)

### **Sec. 98-33. Official zoning map.**

(a) Maintenance.

- (1) The official zoning map shall be kept in the office of the Planning and Zoning Commission and one copy shall be posted in the city hall.
- (2) It shall be the duty of the Planning and Zoning Commission chairman to keep the official map current and the copies thereof, herein provided for, by entering on such maps any changes which the City Council may from time to time order by amendment to the zoning chapter and map.

- (b) *Identification.* The city secretary, upon adoption of this chapter, shall affix a certificate identifying the map as the official zoning map of the city. He shall likewise officially identify the copies directed to be kept by the Planning and Zoning Commission and in the city hall. All amendments to the map shall be made immediately after their enactment and the date of the change shall be noted on the certificate.

(Ord. No. 253, §1 (art. II, §3), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

### **Sec. 98-34. Classification of new and unscheduled uses.**

It is recognized that new or unlisted types of land use may seek to locate in the city. In order to provide for such contingencies, a determination of any new or unlisted form of land shall be made as follows:

- (1) Questions concerning any new or unlisted use shall be referred to the Planning and Zoning Commission for interpretation as to the zoning district into which such should be placed. The use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer. Requests for consideration shall be in accordance with article VI, section 3.
- (2) The Planning and Zoning Commission shall hold a public hearing and meet the parties of interest and shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use should be permitted. Such public hearings shall be scheduled and conducted in accordance with the provisions of sections 98-403 through 98-405.

- (3) The Planning and Zoning Commission shall transmit its findings and recommendations to the City Council as to the classification proposed for any new unlisted use. The City Council shall hold a public hearing and review recommendations of the Planning and Zoning Commission and make such determination concerning the classification of such use as it determines appropriate in accordance with provisions of sections 98-405 through 98-407.

(Ord. No. 253, §1 (art. II, §4), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-35. Newly annexed territory.**

All territory hereafter annexed to the city shall be temporarily classified as PD, pre-development district. The Planning and Zoning Commission will review all territory for consideration of zoning within 180 days of annexation. The procedure for establishing permanent classification of annexed territory shall conform to the procedure established by law for the adoption of the original zoning regulations. (Ord. No. 253, §1 (art. II, §5), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

Secs. 98-36 - 98-60. Reserved.

### **ARTICLE III. DISTRICT REGULATIONS**

#### **Sec. 98-61. Pre-development district (PD).**

In an area temporarily classified as PD, pre-development district:

- (1) No person shall erect, construct, or add to any building or structure or cause the same to be done in any newly annexed territory without first applying for appropriate zoning.
- (2) No permit for the construction of a building or use of land shall be issued by the building permit official other than a permit which shall allow the construction of a building permitted in the PD, pre-development district, unless and until such territory has been classified in a district by the City Council in the manner in accordance with the provisions as follows.
- (3) An application for a permit for any use shall be made to the building inspector for the city and by him referred to the Planning and Zoning Commission for consideration and recommendation to the City Council. The commission in making its recommendation to the City Council shall take into consideration the appropriate land use for the area and the comprehensive land use plan. The City Council after receiving and reviewing the recommendations of the Planning and Zoning Commission may by majority vote authorize the issuance of a building permit or certificate of occupancy or may disapprove the application.
- (4) In a pre-development district no land shall be used for and no building shall be erected for or converted to any use other than: See Schedule of Uses in the appendix at the end of this chapter and section 98-34.

(Ord. No. 253, §1 (art. III, §1), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

### **Sec. 98-62. Single-family residential district (R-1).**

- (a) *Use regulations.* A building or premises shall be used only for the following purpose: See Schedule of Uses in the appendix at the end of this chapter and section 98-34.
- (b) *Height regulations.* No building shall exceed thirty-five (35) feet in height and be greater than two floors. Refer to Sec. 98-4.
- (c) *Area regulations.*
  - (1) *Front yard setback.* A front yard setback shall be a minimum of 40 feet, except in areas platted where setback minimums are established prior to the effective date of this chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
  - (2) *Side yard setback.* There shall be a side yard on each side of the lot, having a width of not less than 25 feet, except a detached garage or other permitted accessory building located 70 feet or more from the front property line shall not be located nearer than five feet to any side property line.
  - (3) *Rear yard setback.* There shall be a rear yard, having a depth of not less than 25 feet, except a detached garage or other permitted accessory building which shall not be located nearer than five feet from the rear property line.
  - (4) *Area of lot.* The minimum area of the lot shall be 32,000 square feet.
  - (5) *Width of lot.* The minimum area of the lot shall be 120 feet.
  - (6) *Depth of lot.* The minimum depth of the lot shall be 120 feet.
- (d) *Parking regulations.* Off-street parking spaces behind the front setback line of property shall be provided on the lot to accommodate a minimum of two automobiles for each dwelling unit.
- (e) *Accessory buildings, associated living quarters and storage buildings.* An accessory building, associated living quarters, or storage building shall not extend beyond the front line of the main building, and shall be a minimum of 25 feet from the side property line and five feet from the rear property line. (Exception: An accessory building located 70 feet or more from the front property line shall be a minimum of five feet from the side property line.)

(Ord. No. 253, §1 (art. III, §2), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. 419, §2, 11-12-2009)

### **Sec. 98-63. Cluster development.**

A cluster development is a residential subdivision in which the lots are allowed to be smaller (in area and width) than otherwise required for the underlying, base R-1 single-family residential zoning district, but in which the overall density cannot exceed two units per acre. Through the cluster development option, a subdivision can contain no more lots than would otherwise be allowed for a conventional subdivision in the same zoning district, but the individual lots within the development could be smaller than required in a conventional subdivision. Smaller lot sizes within a cluster development are required to be offset by a corresponding increase in open space.

- (1) *Purpose.*
  - a. It is the purpose of this section to permit residential cluster development in order to:
    - 1. Encourage creative and flexible site design that is sensitive to the land's natural features and adapts to the natural topography;

2. Protect environmentally sensitive areas of a development site and preserve on a permanent basis open space, natural features, and hill country features;
  3. Decrease or minimize nonpoint source pollution impacts by reducing the amount of impervious surfaces in site development;
  4. Promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines, need to be extended or by reducing the width or length of streets; and
  5. Provide opportunities for social interaction and walking and hiking in open space.
- (2) *Conflict with other regulations.* If there is a conflict between the cluster development standards of this section and any other requirement of this Code, the standards of this section control. Where no conflict exists, a cluster development is subject to all other applicable requirements of this Code.
- (3) *Where allowed.* Cluster developments may be allowed in a R-1 single-family residential district provided that specific city council approval is granted for the cluster development pursuant to the terms of article V of this chapter.
- (4) *Approval procedure.* Cluster developments are subject to the zoning and subdivision procedures set forth herein.
- (5) *Categories of cluster developments.* An applicant for a cluster development specific use permit must obtain authorization for multifamily cluster development townhouse cluster development or a garden home cluster development. Should city council authorize the issuance a specific use permit for a cluster development said permit shall specify the category of cluster development so authorized. Rules relating to each category are as follows:
- a. Multifamily residential cluster development.
    1. *Use regulations.* A building or premises shall be used only for the following purposes: multifamily dwelling units.
    2. *Heights regulations.* No building shall exceed forty (40) feet in height and be greater than two floors. Refer to Sec. 98-4.
    3. Area regulations.
      - i. *Front yard setback.* There shall be a front yard having a minimum depth of 20 feet.
      - ii. *Side yard setback.* There shall be a minimum side yard setback of five feet.
      - iii. *Rear yard setback.* There shall be a rear yard setback having a minimum depth of ten feet.
      - iv. *Density.* A maximum of 30 units may be constructed per acre provided the cluster development open space requirements of this section are met.
    4. *Parking regulations.* Off-street parking spaces behind the front yard set-back line of property shall be provided on the lot to accommodate a minimum of two automobiles for each dwelling unit.

5. *Buffer zone multifamily cluster development to PD, R-1, R-2, or R-3.* A buffer zone of 200 feet from the nearest building in the multifamily cluster development shall be maintained along property lines adjoining properties zoned or used as PD, R-1, R-2, or R-3. The buffer zone shall consist of passive open space and may not contain any impervious cover except that the width of an existing street may be counted towards the buffer zone distance requirement.
  6. *Accessory buildings, associated living quarters and storage buildings.* Accessory buildings and offices associated with the management and maintenance of the: multifamily development and amenities thereto.
- b. Townhouse single-family residential cluster development.
1. *Use regulations.* A building or premises shall be used only for the following purposes: single-family dwelling unit.
  2. *Heights regulations.* No building shall exceed thirty-five (35) feet in height and be greater than two floors. Refer to Sec. 98-4.
  3. *Area regulations.*
    - i. *Front yard setback.* There shall be a front yard having a minimum depth of five feet.
    - ii. *Side yard setback.* There shall be no minimum side yard setback provided that each building is located on separate adjoining platted lots, each being separated from the adjoining unit or units by a vertical firewall (to be constructed in accordance with city codes and ordinances) along the dividing lot line. In those instances where buildings do not share a common firewall the side yard setback shall be a minimum of five feet.
    - iii. *Rear yard setback.* There shall be a rear yard setback having a minimum depth of ten feet.
    - iv. *Density.* A maximum of ten units may be constructed per acre provided the cluster development open space requirements of this section are met.
  4. *Parking regulations.* Off-street parking spaces behind the front yard setback line of property shall be provided on the lot to accommodate a minimum of two automobiles for each dwelling unit.
  5. *Buffer zone townhouse cluster development to PD, R-1, R-2, or R-3.* V A buffer zone of 200 feet from the nearest building in the multifamily cluster development shall be maintained along property lines adjoining properties zoned or used as PD, R-1, R-2, or R-3. The buffer zone shall consist of passive open space and may not contain any impervious cover except that the width of an existing street may be counted towards the buffer zone distance requirement.
  6. *Accessory buildings, associated living quarters and storage buildings.* Accessory buildings associated living quarters, or storage buildings are not permitted in an "R-TH" zoning district.
- c. Garden home single-family residential cluster development.

1. *Use regulations.* A building or premises shall be used only for the following purposes single-family dwelling unit.
  2. *Heights regulations.* No building shall exceed thirty-five (35) feet in height and be greater than two floors. Refer to Sec. 98-4.
  3. Area regulations.
    - i. *Front yard setback.* On each lot there shall be a front yard having a minimum depth of 20 feet.
    - ii. *Side yard setback.* On each lot there shall be a side yard having a minimum depth of five feet.
    - iii. *Rear yard setback.* There shall be a rear yard setback having a minimum depth of 25 feet.
    - iv. *Lot size.* Each lot shall be a minimum of 6,600 square feet, shall have a minimum lot width of 55 feet and shall have a minimum lot depth of 120 feet provided the cluster development open space requirements of this section are met.
  4. *Parking regulations.* Off-street parking spaces behind the front yard set-back line of property shall be provided on the lot to accommodate a minimum of two automobiles for each dwelling unit.
  5. *Accessory buildings, associated living quarters and storage buildings.* There may be only one single-family structure on each lot and no accessory, associated or additional living quarters shall be permitted in a garden home single-family residential cluster development. One accessory building, other than living quarters, or one storage building shall be permitted. Said accessory or storage building shall not extend beyond the front line of the main building, and shall be a minimum of five feet from the side property line and five feet from the rear property line.
- (6) Open space plan.
- a. An open space plan must be submitted with the submittal of the for cluster development specific use permit request.
  - b. No specific use permit for cluster development shall be granted unless the open space plan:
    1. First receives a recommendation to the city council by the planning and zoning commission; and
    2. Is thereafter approved by city council prior to or at the time city council considers the specific use permit for the cluster development.
  - c. Plan must show the open space contiguous or otherwise approved by city council.
  - d. Once an open space plan is approved by city council it shall not be modified without the subsequent approval of city council.
- (7) Cluster development open space requirements.
- a. *Minimum requirement.* Common open space is required within a cluster development to ensure that the overall density within the development does not exceed the maximum density allowed by the underlying R-1 single-family

residential zoning district. Common open space must be provided in an amount at least equal to the difference between:

1. The actual, average lot area per dwelling unit within the cluster development; and
  2. The required lot area per dwelling unit for conventional development within the underlying R-1 single-family residential district base zoning district.
- b. *Use of open space.* Common open space must be set aside and designated as an area where no development will occur.
- c. *Designation of open space.* Open space shall be designated as such on the subdivision plat of the property and by conservation easement or other instrument, approved by the city attorney, and which shall be recorded in the property records of Bexar County Texas.
- d. *Homeowners association.* Multifamily condominium, townhouse and garden home cluster developments shall have a mandatory homeowners or property owners association who shall maintain, manage and control the open space.
- e. *Location of open space.* Prior to approval of a special use permit for a cluster development the proposed open space shall be identified by survey, metes and bounds or other description acceptable by the city engineer. Where applicable, city council may require the open space to include "sensitive land" which comprise:
1. Wetlands;
  2. Woodlands;
  3. Sensitive aquifer recharge features;
  4. All of the floodway and flood fringe within the 100-year floodplain, as shown on the most current official FEMA maps;
  5. All areas within 100 feet of the edge of the 100-year floodplain as delineated on the FEMA maps and any letter of map revision;
  6. All areas within 100 feet of the banks of any stream shown as a blue line on the USGS 1:24,000 (7.5 minute) scale topographic maps for Bexar County;
  7. Steep slopes (i.e., slopes exceeding 25 percent);
  8. Soils subject to slumping, as indicated on the medium-intensity maps contained in the most current county soil survey published by the USDA Natural Resources Conservation Service;
  9. Significant wildlife habitat areas; and
  10. Historic, archaeological or cultural features listed (or eligible to be listed) on national, state, or city registers or inventories.

(Ord. No. 310, §2 (App. A), 6-22-2006; Ord. No. 387, §1, 12-8-2008; Ord. 419, §2, 11-12-2009)

## **Sec. 98-64. Two-family residential district (R-2).**

- (a) *Use regulations.* A building or premises shall be used for the following purposes: See Schedule of Uses in the appendix at the end of this chapter and section 98-34.
- (b) *Height regulations.* No building shall exceed thirty-five (35) feet in height and be greater than two floors. Refer to Sec. 98-4.
- (c) *Area regulations.*
  - (1) *Front yard setback.* There shall be a front yard having a minimum depth of not less than 40 feet.
  - (2) *Side yard setback.* There shall be a side yard on each side of the lot, having a width of not less than 25 feet, except a detached garage or other permitted accessory building located 70 feet or more from the front property line shall not be located nearer than five feet to any side property line.
  - (3) *Rear yard setback.* There shall be a rear yard having a depth of not less than 25 feet, except a detached garage or other permitted accessory building which shall not be located nearer than five feet from the rear property line.
  - (4) *Area of lot.* Except as hereinafter provided, all dwellings erected, enlarged, relocated, reconstructed, or converted shall be located upon lots containing the following area: A lot on which a two-family dwelling is located shall contain not less than 32,000 square feet.
  - (5) *Width of lot.* The minimum width of the lot shall be 100 feet for the two-family dwelling.
  - (6) *Depth of lot.* The minimum depth of the lot shall be 120 feet.
- (d) *Parking regulations.* Off-street parking spaces behind the front line of the dwelling shall be provided on the lot to accommodate a minimum of two automobiles for each dwelling unit.
- (e) *Accessory buildings, associated living quarters and storage buildings.* An accessory building, associated living quarters, or storage building shall not extend beyond the front line of the main building, and shall be a minimum of 25 feet from the side property line and five feet from the rear property line. (Exception: An accessory building located 70 feet or more from the front property line shall be a minimum of five feet from the side property line.)

(Ord. No. 253, §1 (art. III, §3), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 419, §2, 11-12-2009)

## **Sec. 98-65. Mobile home district (R-3).**

- (a) *Use regulations.* A building or premises shall be used only for the following purposes: See Schedule of Uses in the appendix at the end of this chapter and section 98-34.
- (b) *Height regulations.* The average height of the mobile home frame above the ground elevation, measured at 90 degrees to the frame, shall not exceed three feet.
- (c) *Area regulations.*
  - (1) The minimum front yard setback shall be ten feet from the nearest corner of the mobile home to the front line of the mobile home space.
  - (2) No mobile home or accessory building shall be closer than 25 feet to any property line nor closer than 40 feet to the property line adjoining a public street.
  - (3) The minimum distance between mobile homes at any point shall be 25 feet, provided, however, that mobile homes parked end-to-end may have a clearance of not less than ten



feet.

- (4) A mobile home district shall be such that a minimum street of 36 feet is provided on one side or end of each space.
- (d) *Parking regulations.* Off-street parking shall be provided at the rate of two spaces per mobile home space. All parking spaces shall be minimum 40 feet off city streets and off of mobile home district streets.
- (e) *Accessory buildings and storage buildings.* An accessory building, associated living quarters, or storage building shall not extend beyond the front line of the main building, and shall be a minimum of 25 feet from the side property line and five feet from the rear property line. (Exception: An accessory building located 70 feet or more from the front property line shall be a minimum of five feet from the side property line.)

(Ord. No. 253, §1 (art. III, §4), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 419, §2, 11-12-2009)

### **Sec. 98-66. Office and professional district (B-1).**

- (a) *Use regulations.* A building or premises shall be used only for the following purposes:
  - (1) These districts are composed of land and structures occupied by or suitable for such uses as offices, studios, and limited light commercial uses.
  - (2) See Schedule of Uses in the appendix at the end of this chapter and section 98-34.
- (b) *Height regulations.* No building shall exceed forty (40) feet in height. Refer to Sec. 98-4.
- (c) *Area regulations.* Area uses are governed by the regulations prescribed.
  - (1) *Front setback.* The minimum front setback shall be ten feet.
  - (2) *Side area setback.* No minimum except that a side yard of not less than ten feet in width shall be provided on the side of the lot common to a side street.
  - (3) *Area of lot.* The minimum area of the lot shall be 6,000 square feet.
  - (4) *Width of lot.* The minimum width of the lot shall be 60 feet.
  - (5) *Depth of lot.* The minimum depth of the lot shall be 100 feet.
  - (6) *Buffer zone B-1, to PD, R-1, R-2, or R-3.* A buffer zone of 100 feet, or a street plus 30 feet or 30 feet plus an approved eight-foot privacy fence shall be maintained.
  - (7) *Fire lane.* A minimum fire lane of 16 feet shall be maintained adjacent to one side of the building having doors.
- (d) *Parking regulations.* See article IV of this chapter.
- (e) *Accessory buildings.* No accessory buildings as permitted herein shall be more than fifteen (15) feet in height and have more square feet in floor area than 25 percent of the ground floor area of the main building. No accessory building may be closer than five feet to the main building in the rear yard. Accessory buildings, as permitted herein, are allowed in side yards; provided, however, that no accessory building may be closer than five feet to any main building on the same lot, nor closer than five feet to a common B-1, B-2, B-3, or B-4 property line, unless the property line is common to a street in which case the minimum setback shall be 30 feet. If common property line to R-1, R-2, or R-3, the minimum setback shall be 25 feet if a 100-foot buffer exists, 40 feet if a 40-foot plus street buffer exists, or 15 feet if a 30-foot plus eight-foot

privacy fence buffer exists. No accessory building shall be allowed in the front yard or allowed to extend beyond the front line of the main building.

(Ord. No. 253, §1 (art. III, §5), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 419, §2, 11-12-2009)

**Sec. 98-67. Neighborhood service district (B-2).**

- (a) Use regulations.
  - (1) These districts are composed of land and structures occupied by or suitable for furnishing retail goods such as groceries, drugs, clothing and such services to satisfy the household needs of the surrounding residential area.
  - (2) A building or premises shall be used only for the following purposes: See Schedule of Uses in the appendix at the end of this chapter and section 98-34.
- (b) *Height regulations.* No building shall exceed forty (40) feet in height. Refer to Sec. 98-4.
- (c) *Area regulations.* Area uses which may be permitted within a neighborhood service district are governed by the prescribed regulations.
  - (1) *Front setback.* Ten-foot minimum, except that drive-in gasoline service islands may not be located nearer than 25 feet to the front property line.
  - (2) *Side area setback.* No minimum, except that a side area of not less than ten feet in width shall be provided on the side adjoining a side street.
  - (3) *Area of lot.* The minimum lot area shall be 6,000 square feet.
  - (4) *Width of lot.* The minimum lot width shall be 60 feet.
  - (5) *Depth of lot.* The minimum depth of the lot shall be 100 feet.
  - (6) *Buffer zone, B-2 to PD, R-1, R-2, or R-3.* A buffer zone of 100 feet or a street plus 40 feet or 30 feet plus an approved eight-foot privacy fence shall be maintained.
  - (7) *Fire lane.* A minimum fire lane of 16 feet shall be maintained adjacent to one side of the building having entry doors.
- (d) *Parking regulations.* See article IV of this chapter.
- (e) *Accessory buildings.* No commercial accessory building as permitted herein shall be more than fifteen (15) feet in height and have more square feet in floor area than 25 percent of the ground floor area of the main building. No accessory building may be closer than five feet to the main building in the rear yard. Accessory buildings, as permitted herein, are allowed in side yards; provided, however, that no accessory building be closer than five feet to any main building, nor closer than five feet to a common B-1, B-2, B-3 or B-4 district property line, unless the property line is common to a street, in which case the minimum setback shall be 30 feet. If common property line to R-1, R-2 or R-3 districts, the minimum setback shall be 25 feet if a 100-foot buffer exists, 40 feet if a 40-foot plus street buffer exists, or 15 feet if a 30-foot plus eight-foot privacy fence buffer exists. No accessory building shall be allowed in the front yard or allowed to extend beyond the front line of the main building.

(Ord. No. 253, §1 (art. III, §6), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 419, §2, 11-12-2009)

**Sec. 98-68. General business district (B-3).**

- (a) Use regulations.
  - (1) These districts are composed of land and structures used for area retail and wholesale sales and limited repair/fix-it operations. Typical uses are department stores, restaurants, camera repair, appliance repair and limited warehousing in conjunction with wholesale distribution.
  - (2) A building or premises shall be used only for the following purposes: See Schedule of Uses in the appendix at the end of this chapter and section 98-34.
- (b) *Height regulations.* No building shall exceed forty (40) feet in height. Refer to Sec. 98-4.
- (c) *Area regulations.* Area uses permitted within a general business district are governed by the regulations prescribed.
  - (1) *Front setback.* The minimum front setback shall be ten feet.
  - (2) *Side area setback.* No minimum except that a side yard of not less than ten feet in width shall be provided on the side of the adjoining side street.
  - (3) *Area of lot.* The minimum area of the lot shall be 6,000 square feet.
  - (4) *Width of lot.* The minimum width of lot shall be 60 feet.
  - (5) *Depth of lot.* The minimum depth of the lot shall be 100 feet.
  - (6) *Buffer zone B-3 to PD, R-1, R-2, or R-3.* A buffer zone of 100 feet, or a street plus 40 feet or 30 feet plus an approved eight-foot privacy fence shall be maintained.
  - (7) *Fire lane.* A minimum fire lane of 16 feet shall be maintained adjacent to one side of the building having doors.
- (d) *Parking regulations.* See article IV of this chapter.
- (e) *Accessory buildings.* No commercial accessory building as permitted herein shall be more than fifteen (15) feet in height and have more square feet in floor area than 25 percent of the ground floor area of the main building. No accessory building may be closer than five feet to the main building in the rear yard. Accessory buildings, as permitted herein, are allowed in side yards; provided, however, that no accessory building on the same lot be closer than five feet to any main building, nor closer than five feet to a common B-1, B-2, B-3 or B-4 property line, unless the property line is common to a street, in which case the minimum setback shall be 30 feet. If common property line to R-1, R-2, or R-3, the minimum setback shall be 25 feet if a 100-foot buffer exists, 40 feet if a 40-foot plus street buffer exists, or 15 feet if a 30-foot plus an eight-foot privacy fence buffer exists. No accessory building shall be allowed in the front yard of allowed to extend beyond the front line of the main building.

(Ord. No. 253, §1 (art. III, §7), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 419, §2, 11-12-2009

**Sec. 98-69. Overlay district (B-3 OD).**

- (a) *Purpose.* The purpose of the B-3 Overlay District is:
  - (1) To create a more attractive, cohesive, and safe environment; and
  - (2) To safeguard the City's heritage by preventing the spoliation of areas that reflect important elements of the City's cultural, natural, historic, and economic fabric; and

- (3) To create favorable impressions of Helotes that provide environmental enrichment for the citizens of the City and visitors thereto; and
  - (4) To preserve, protect, and enhance nearby residential areas; and
  - (5) To reduce visual chaos and limit distractions along public roadways; and
  - (6) To stabilize and strengthen property values within the corridor.
- (b) Zoning process and classification.
- (1) This Section authorizes the establishment of B-3 Overlay Districts; however, separate ordinances are required to designate each district.
  - (2) The B-3 Overlay Districts are established as overlays to the regular base zoning districts. Any property located within a B-3 Overlay District must comply with the requirements of the base district, as well as the Overlay District. If there is a conflict between the requirements of the base district and the Overlay District, the more restrictive requirement shall prevail.
  - (3) The zoning designation for the B-3 Overlay District shall consist of the base zone symbol and the Overlay District symbol (OD) as a suffix.
- (c) Permitted and non-permitted uses.
- (1) The uses that are not permitted in a B-3 Overlay District are as follows:
    - a. Alcoholic Beverage (Retail) Sales (No On-premises Consumption).
    - b. Automobile Filling Station and / or Service (Service Completely Enclosed in B-2 and B-3 Districts).
    - c. Automobile Paint and Auto Body Shop (Completely Enclosed in B-3 District).
    - d. Automobile Parking Lots or Garages (Commercial).
    - e. Automobile Car Wash (Self-service).
    - f. Bus Passenger Station at Existing Business other than Busing Company.
    - g. Funeral Home.
    - h. Manufacturing, Light.
    - i. Newspaper Printer (Completely Enclosed in B-3 District).
    - j. Pawnshop (Completely Enclosed in B-2 and B-3 Districts).
    - k. Recreation Vehicle Park.
    - l. Stone Cutting and Monument Sales / Service (Completely Enclosed in B-3 District).
    - m. Storage Building (Marine, Automobile, Home, Commercial) (Completely Enclosed in B-3 District).
    - n. Tavern with Outdoor Area for Patrons / Entertainment Purposes.
    - o. Tavern (Completely Enclosed in B-2 and B-3 Districts).
    - p. Theater (Outdoor) (Consumption of Alcohol Permitted).
    - q. Theater (Outdoor) (Consumption of Alcohol Not Permitted).
    - r. Veterinarian Office and Hospital (with Outside Boarding).

- (2) The uses that may be permitted by the City Council, pursuant to the methodology prescribed in Chapter 98, Article V Specific City Council Approved Use Permit are as follows:
  - a. Automobile Car Wash (Full-service).
  - b. Automobile Part Sales (Completely Enclosed) (Retail).
  - c. Automobile Rental (Rental Car Parking Area Completely Fenced with Six (6) ft. Opaque Fencing in B-2 and B-3 Districts).
  - d. Automobile (Incl. Motorcycles) Sales and Service (New and Used, When Used Incidental to New Sales) (Service Completely Enclosed in B-3 District).
  - e. Carpet Service and Cleaning (Completely Enclosed in B-2 and B-3 Districts).
  - f. Club or Lodge (Governmental and Non-profit).
  - g. Club or Lodge (Non-governmental).
  - h. Convenience Store (Completely Enclosed in B-2 and B-3 Districts).
  - i. Hotel (Other Than Motel or Motor Inn Where Patrons Access Rooms Via Parking Area).
  - j. Marine Sales and Service (New and Used, When Used Incidental to New Sales) (Service Completely Enclosed in B-3 District).
  - k. Restaurant with Drive Thru (Alcoholic Beverages Incidental to Food Sales).
  - l. Theater (Completely Enclosed) (Consumption of Alcohol Permitted).
  - m. Theater (Completely Enclosed) (Consumption of Alcohol Not Permitted).
- (3) Any use permitted by the Schedule of Uses [in Appendix A at the end of this Chapter] in a B-3 General Business District and that is not prohibited by Subsection (c)(1) of this Section, nor require a Specific City Council Approved Use Permit by Subsection (c)(2) of this Section, is permitted as a matter of right in a B-3 Overlay District.

(Ord. No. 253, §1 (art. III, §8), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 409, §1, 8-13-2009)

#### **Sec. 98-70. Central business district (B-4).**

- (a) *Use regulations.* These districts are composed of land and structures used for a variety of retail, wholesale sales, repair, entertainment and limited manufacturing which does not emit offensive odor, dust, smoke, fumes, or noise beyond the boundary lines of a B-4 district. A building or premises shall be used only for the following purposes: See Schedule of Uses in the appendix at the end of this chapter and section 98-34.
- (b) *Height regulations.* No building shall exceed forty (40) feet in height. Refer to Sec. 98-4.
- (c) *Area regulations.* Area uses which may be permitted within a central business district are governed by the prescribed legislation.
  - (1) *Front setback.* There shall be provided a front building setback of no less than ten feet.
  - (2) *Side area setback.* No minimum except that a side yard of not less than ten feet in width shall be provided on the side of an adjoining side street.
  - (3) *Rear area setback.* No rear yard is required, except that a rear yard of not less than 50 feet on depth shall be provided upon that portion of a lot abutting a rear street or B-1, B-2 or

B-3 districts. No parking, storage, or similar use shall be allowed in required rear yards in the B-4 district within 25 feet of the rear property line.

- (4) *Area of lot.* The minimum area of the lot shall be 10,000 square feet.
- (5) *Width of lot.* The width of the lot shall be 60 feet.
- (6) *Depth of lot.* The minimum depth of the lot shall be 100 feet.
- (d) *Buffer zone, B-4 to PD, R-1, R-2 or R-3.* A buffer zone of 200 feet or a street plus 80 feet or 60 feet plus an approved eight-foot privacy fence shall be maintained.
- (e) *Fire lane.* A minimum fire lane of 16 feet shall be maintained adjacent to one side of the building having an entry door.
- (f) *Parking.* See article IV of this chapter.

(Ord. No. 253, §1 (art. III, §9), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 419, §3, 11-12-2009)

### **Sec. 98-71. Industrial district (I-1).**

- (a) *Use regulations.* Manufacturing, industrial servicing or storage process not prohibited by law are permitted per the Schedule of Uses in the appendix at the end of this chapter, and section 98-34, and upon approval by the City Council in accordance with the specific use permit procedure, article V of this chapter.
- (b) *Height regulations.* No building shall exceed forty (40) feet in height. Refer to Sec. 98-4.
- (c) *Area regulations.* Area uses which may be permitted within the industrial districts are governed by the prescribed legislation.
  - (1) *Front area setback.* There shall be a front setback of no less than 50 feet.
  - (2) *Side area setback.* There shall be provided a side building setback no less than 25 feet to I-1 and 50 feet to B-1 through B-4, side yard adjacent to side street minimum 50 feet.
  - (3) *Rear yard setback.* No rear yard is required, except that a rear yard of not less than 50 feet of depth shall be provided upon that portion of a lot abutting a rear street or I-1 district. No parking, storage, or similar use shall be allowed in required rear yards in I-1 districts within 25 feet of the rear property line. A rear yard of not less than 100 feet in depth shall be provided upon that portion of a lot abutting a B-1, B-2 or B-3 district.
  - (4) *Area of lot.* The minimum area of the lot shall be 10,000 square feet.
  - (5) *Width of lot.* The width of the lot shall be 100 feet.
  - (6) *Depth of lot.* The minimum depth of the lot shall be 100 feet.
- (d) *Buffer zone I-1 to PD, R-1, R-2 or R-3.* A buffer zone of 300 feet or a street plus 200 feet or 100 feet plus an approved eight-foot privacy fence shall be maintained.
- (e) *Fire lane.* A minimum fire lane of 16 feet shall be maintained on two nonadjacent sides of the building having doors.
- (f) *Safety.* All I-1 property lines abutting any other district shall have a safety fence of nine gauge chain link fence with a minimum barrier height of six feet or approved equal. Safety fence may be deleted across the front of the property, provided the fence abuts each side of the building at not more than 20 feet behind the front line of said building.

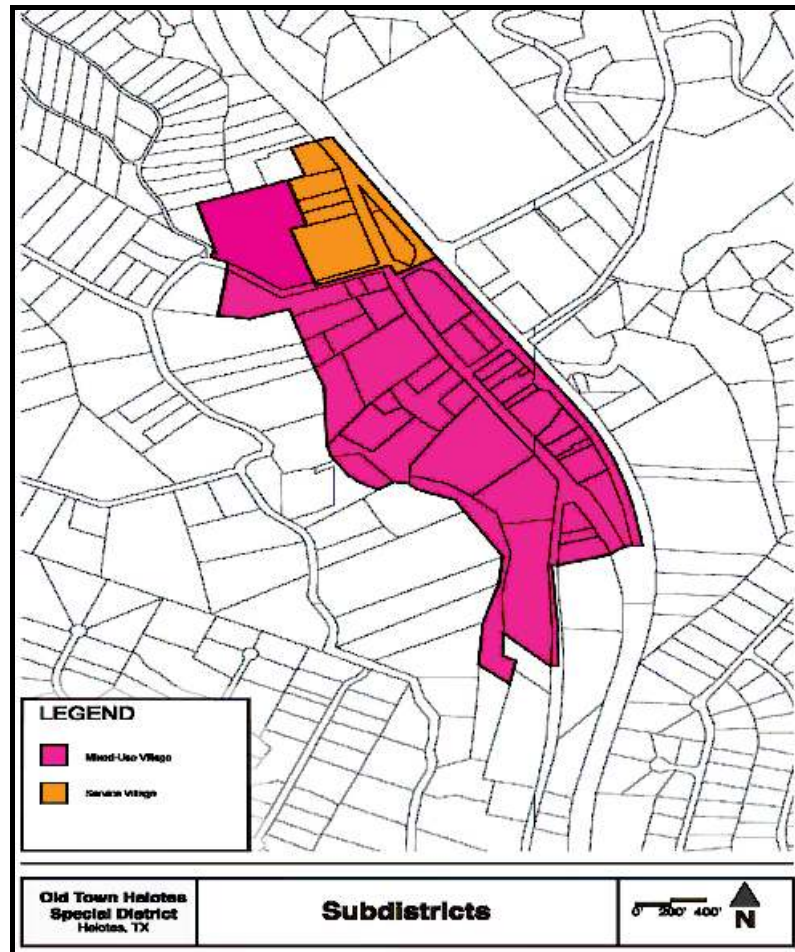
(g) *Parking.* See article IV of this chapter.

(Ord. No. 253, §1 (art. III, §10), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 419, §3, 11-12-2009)

## **98-72. Old Town Helotes Special District**

(a) *Establishment of Districts.* For the purpose of regulating development in and near Old Town Helotes and, more specifically, within the Old Town Helotes Special District, the following subdistricts are hereby established:

- (1) Mixed-Use Village; and
- (2) Service Village.



(b) Purpose.

- (1) *General.* The Old Town Helotes districts are established for the purpose of preserving and protecting the character of the Old Town area as the community grows. The Old Town Helotes Plan provides substantial additional detail and should be consulted during consideration of development applications within these subdistricts. The intent for the area west of Highway 16 (Bandera Road) is to create and maintain a pedestrian environment with a rural village character. Informal clusters of buildings are most appropriate. A variety of setbacks are appropriate, including deep setbacks where parking occurs between and among the trees. Parking surfaces between the building and street are allowed, provided that parking surfaces are located, at a minimum, forty (40) feet from the street. Such parking surfaces are encouraged to be pervious. Where three stories are allowed, the third story use must be residential. Two-story and one-story uses should be located in proximity to Old Bandera Road, Riggs Road, and Highway 16 (Bandera Road).
- (2) *Mixed Use Village Purpose.* The purpose of the Mixed Use Village subdistrict is to maintain and enhance the existing mixed use, walkable pedestrian environment in Old Town. A mix of residential, retail, entertainment, and restaurant uses is appropriate. Civic, cultural, and institutional uses are also appropriate. Upper floors are encouraged to include office or residential uses. Uses are intended to create an active, pedestrian-oriented street edge. Residential uses are intended to take advantage of scenic creek views. The Mixed Use Village encompasses both the mixed use village and the mixed use residential areas described in the Old Town Helotes Plan.
- (3) *Service Village Purpose.* The purpose of the Service Village subdistrict is to provide for service commercial establishments in a walkable, mixed use setting. Upper floors are encouraged to include office or residential uses. Uses are intended to reflect the orientation to both Old Bandera Road and Highway 16 (Bandera Road). It is anticipated that a balance between users arriving by car and from the Mixed Use Village will occur. The area is intended to serve as a transition between the core of Old Town and surrounding areas.

(c) Use Regulations.

- (1) The following uses are permitted in the OTH subdistricts. Where a use is not clearly allowed by the table and use definitions below, the Board of Adjustment shall interpret whether or not such a use was intended to be allowed within the subdistrict.



USE TABLE	Mixed Use Village	Service Village
■ = Permitted By Right    ○ = Permitted Only by City Council    Blank = Not Permitted		
<b>Residential</b>		
Single-family detached (1 unit)	■	
Single-family attached (2 units)	■	■
Townhouse (3+ units)	■	■
Multifamily (3+ units)	■	■
Associated living quarters	■	■
Upper story residential	■	■
Senior living	○	○
<b>Civic</b>		
Day care	■	■
Park	■	■
Place of worship	■	■
School, public or private	■	■
<b>Commercial</b>		
Alcoholic beverage sales	■	■
Entertainment	■	■
Office	■	■
Office, Medical		
Overnight accommodations	■	■
Parking, commercial	■	■
Personal services	■	■
Restaurant	■	■
Retail	■	■
Gambling		
Sexually-oriented business		
Vehicle sales or service		
Warehousing or storage		
<b>Industrial</b>		
All industrial uses		

- (2) *Nonconforming Uses.* Nonconforming uses shall be allowed to continue. Such uses may be operated and sold; however, nonconforming uses shall not be expanded or otherwise altered. No change in use, except to a conforming use, is permitted.
- (3) *Drive-Through Facilities.* No drive-through facilities shall be allowed in any OTH subdistrict.
- (4) *Use Definitions.* Many of the uses included in the use table above are defined in Chapter 98-4 of the Helotes City Code. Where a definition is included below, it shall supersede any other definition. Where a use is not clearly allowed by the use definitions below, the Board of Adjustment shall interpret whether or not such a use was intended to be allowed within the subdistrict.

- # *Associated Living Quarters.* Associated living quarters means servants' quarters and additional living areas of the main residence. The total area of associated living quarters shall be determined in conformance with the table in the definition of associated living quarters in the zoning ordinance.
- # *Upper Story Residential.* A residential use in an upper floor above a commercial use.
- # *Senior Living.* Any group housing and services program for two or more unrelated adults age 55 or older that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies.
- # *Day Care.* A facility designed to care for children or adults, as licensed by the State of Texas.
- # *Entertainment.* Live vocalists, musicians, disc jockeys, comedians, karaoke, performers (paid or not, including contestants), and the like.
- # *Office.* Activities conducted in an office setting and generally focusing on business, government, professional, or financial services.
- # *Office, Medical.* A facility designed to provide office, clinic, surgical, or lab space for doctors, dentists, and similar professionals that generate high activity in comparison to typical offices.
- # *Overnight Accommodations.* A hotel, motel, bed & breakfast, inn, or hostel facility.
- # *Commercial Parking.* A facility that charges patrons for parking.
- # *Personal Services.* A facility providing services on a personal basis, such as an athletic or health club; barbershop or beauty shop; dance, art, gymnastic, or music studios or classes; nail, tanning, and similar personal care services.
- # *Restaurant.* An establishment that prepares and sells food for on- or off-premise consumption.
- # *Retail.* A facility selling, leasing, or renting consumer, home, and/or business goods directly to end consumers, including, but not limited to, antiques, art, art supplies, baked goods, bicycles, books, cameras, crafts, clothing, convenience goods, dry goods, electronic equipment, fabric, flowers, gifts or novelties, groceries, household products, jewelry, music, musical instruments, pet supplies, pharmaceuticals, photo finishing, picture frames, plants, postal substation, printed materials, produce, souvenirs, sporting goods, stationery, tobacco, videos, and related products. Also includes art or photo studio or gallery and light manufacturing associated with the creation of individual pieces of art or crafts.
- # *Vehicle Sales or Service.* A facility or tract of land for the sale or service of motor vehicles, boats, recreational vehicles, or manufactured or modular homes.
- # *Warehousing or Storage.* A facility, whether self-service or full-service, that provides for the storage or movement of goods for themselves or others. This definition shall include office/warehouse facilities where the offices occupy less than 75 percent of the facility; however, it is not intended to include incidental storage for offices as a principal use.
- # *Industrial Use.* A facility engaged in the manufacturing, assembly, repair, or servicing of industrial, business, or consumer machinery, equipment, products, or by-products mainly by providing centralized services for separate retail outlets. Includes contractors, building maintenance services, and similar uses that perform services off-site. Few

customers, especially the general public, come to the site. Specifically does not include activities associated with the creation of individual pieces of art or crafts.

(d) Dimensional Standards.

- (1) The following dimensional standards shall apply within the subdistricts of the Old Town Helotes Special District (OTH):

<b>DIMENSIONS</b>	<b>Mixed Use Village</b>	<b>Service Village</b>
Lot Area (min.)	6,000 SF	6,000 SF
Lot Width (min.)	60 feet	60 feet
Impervious Cover (max.), Buildings plus Surfaces*	47.5 percent	55 percent
Building Footprint (max.)	10,000 SF	15,000 SF
Building Module (max.)**	5,000 SF	8,000 SF
Height (max.)	1 or 2 standard stories; Maximum plate height of 42 feet (three standard stories) allowed where setback from Old Bandera Road, Hwy. 16, and Riggs Road is at least 60 feet	1 or 2 standard stories; Maximum plate height of 42 feet (three standard stories) allowed where setback from Old Bandera Road, Hwy. 16, and Riggs Road is at least 60 feet
Residential Density	10 units/acre	10 units/acre
Setbacks (min.)		
Front ***	0 feet	0 feet
Side	0 feet	0 feet
Rear	10 feet	10 feet
Side/rear abutting street	10 feet	10 feet

\* Edwards Aquifer Authority standards control where they are more restrictive. The Texas Commission on Environmental Quality standards control where they are more restrictive. Impervious cover includes roofed buildings, paved surfaces, such as sidewalks and driveways, and any other surface that does not permit water to move through to the aquifer. Concrete, clay, and brick pavers shall be considered pervious cover, as long as joints formed from abutting pavers are not filled with impervious materials, such as concrete.

\*\* Building module is used here to describe designing a larger building so that it appears as multiple smaller buildings through articulation, change in materials, or other similar techniques. Where the building footprint exceeds the maximum allowed module, the building must be designed as though it were made up of two separate buildings that may be connected.

\*\*\* Varied front setbacks are encouraged.

- (2) *Nonconforming Structures.* Nonconforming structures shall be allowed to continue. A nonconforming structure may be expanded provided it does not cause the nonconformity of the structure to increase. An example of a permitted expansion would be the addition of a second story to a structure that was nonconforming due to its footprint exceeding the impervious cover maximum set out in the dimension standards table. However, the

expansion of the footprint of such a structure would not be permitted because the expansion would cause an increase in the structure's nonconformity.

- (3) *Building Types.* The Old Town Helotes Plan provides for a variety of building types that are appropriate in Old Town, including traditional storefront, traditional village, mixed use village, and mixed use commercial cluster types. See the Plan for additional details, including key design features.
- (4) *Residential Buffer Zone.* A buffer zone of 30 feet (or a street plus 10 feet) shall be maintained where any OTH subdistrict abuts an existing R-1, R-2, or R-3 District.
- (5) *Stream Buffer Zone.* A stream buffer zone shall be established within the boundary lines of the 100-year floodplain along Helotes Creek, as established by the Federal Emergency Management Agency (FEMA). Activity within this stream buffer zone shall be limited to recreational purposes, such as trails, overlooks, and similar facilities. Where the City Council feels that appropriate measures have been taken to ensure the stability of the stream bank and the vegetative filtering qualities of the buffer, private development may extend into the stream buffer, provided that it does not block public access along the Creek. Private development is encouraged to dedicate a public easement along Helotes Creek to the City for the continuation of trails, overlooks, and similar facilities.
- (6) *Plazas, Public Spaces, and Paths.* Where appropriate, plazas and public spaces should be located near Helotes Creek and throughout Old Town. Paths through private parcels that connect to the Creek are encouraged.
- (7) *Accessory Buildings.*
  - a. *Commercial Accessory Buildings.* No commercial accessory building shall exceed forty (40) feet in height or have more than 25 percent of the ground floor area of the main building. The commercial accessory building shall be located in the rear yard, no closer than 10 feet from the main building or any common property line. No commercial accessory building shall be located within 30 feet of a street.
  - b. *Residential Accessory Buildings.* A residential accessory building, associated living quarters, or storage building shall not extend beyond the front line of the main building, and shall be a minimum of 25 feet from the side property line and five feet from the rear property line. (Exception: A residential accessory building located 70 feet or more from the front property line shall be a minimum of five feet from the side property line.) No residential accessory building, associated living quarters, or storage building shall exceed thirty (30) feet in height or have more than 50 percent of the ground floor area of the main building. No residential accessory building, associated living quarters, or storage building shall be located within 30 feet of a street.

(Ord. No. 419, §4, 11-12-2009)

- (e) *Design Regulations.* Review of all development within the OTH subdistricts shall be subject to the concepts and design guidelines of the Old Town Helotes Plan. The Plan content and guidelines replace any existing guidelines used by the Planning and Zoning Commission to consider development in any designated OTH subdistrict.

(f) **Parking Regulations.**

- (1) *Intent.* Parking regulations are intended to minimize the appearance of parked cars within the OTH subdistricts. Shared parking is encouraged. Off-street interconnection between parking areas shall be required, where feasible, as determined by the City Engineer. Landscaping in parking areas should have a natural, rural appearance rather than a formal, urban appearance. Protection of existing trees in parking areas is important and parking between and among trees is highly encouraged.
- (2) *Parking Between Buildings and Streets.* With the exception of on-street parking, generally no parking shall be allowed between a building and Old Bandera Road, Riggs Road, and/or Hwy. 16 in any OTH subdistrict. Parking surfaces between buildings and streets are allowed, however, provided that parking surfaces are located, at a minimum, forty (40) feet from the street. Such parking surfaces are encouraged to be pervious. Parking between and among trees shall be allowed. Drive aisles and aprons for parking may be concrete or asphalt where determined necessary due to anticipated patterns of use.
- (3) *Maximum Parking Pod Size.* Parking shall be broken up by landscaped areas, tree islands, and buildings into pods containing no more than the number of parking spaces listed in the table below. Existing, mature trees shall be integrated into parking areas to the maximum extent feasible.

Subdistrict	Parking Pod Size (max.)
Mixed Use Village	30 spaces
Service Village	45 spaces

- (4) *Parking Ratios.* The following parking shall be provided on the project site or in a location within 600 feet of the project site that is contractually reserved for parking purposes for a minimum of 10 years:

Use	Required Parking Spaces (min.)
Residential Uses Single-family detached, attached or townhouse Multifamily, under 2 bedrooms Multifamily, 2 bedrooms or more Senior living	2 spaces per dwelling unit 1¼ spaces per dwelling unit 2 spaces per dwelling unit 1 space per 2 bedrooms
All Civic uses	1 space per 500 square feet of gross floor area
All Commercial uses	1 space per 500 square feet of gross floor area

- (5) *Cooperative Parking Plan.* Any individual use or group of uses may prepare a cooperative parking plan, notwithstanding the restrictions of Section 98-104, provided the form of the parking agreement is approved by the City Attorney.

- (6) *Reduction for Access to Public Parking.* Where public parking is available within 1,000 feet of the project site, the City Council may consider a reduction of up to 100 percent of the required parking.
  - (7) *Parking Surfaces.* Any parking surface that is intended for use by the general public (other than required handicapped spaces) may be surfaced with alternative surfaces that are more pervious than typical asphalt or concrete. Pervious surfaces are preferred; however, other materials such as asphalt, concrete, or another material acceptable to the City Engineer are allowed. All such surfaces shall be stable, firm, and slip-resistant.
- (g) Sign Regulations.
- (1) *Intent.* The intent of the sign regulations in the OTH subdistricts is to create and maintain the small-town rural feel of the area. Signs should suggest hand craftsmanship in their design and materials. Pole-mounted and freestanding signs for wayfinding and advertising purposes throughout the area are appropriate. All other signs should be focused on the pedestrian and not on vehicular traffic associated with adjacent roadways.
  - (2) *Existing Regulations Apply.* The sign regulations of Chapter 66 shall apply to signs in the OTH subdistricts, except as expressly set forth below.
  - (3) *Design and Construction.* Sign materials and design shall be suggestive of hand craftsmanship, and the use of local materials is encouraged.
  - (4) *Exempted and Restricted Signs.* See sign regulations of Chapter 66. No internally illuminated awnings are permitted.
  - (5) *Signs and Acts Prohibited.* See sign regulations of Chapter 66. Pole-mounted and freestanding signs are acceptable for wayfinding and advertising purposes within the Old Town Helotes Special District.
  - (6) Signs Authorized.
    - a. *Signs Authorized By Reference.* See the following sections:
      - 1. Residential signs (Chapter 66, Article 5, Sec. 66-42;
      - 2. Residential subdivision entry signs (Chapter 66, Article 5, Sec. 66-43);
      - 3. Banners, temporary and site development signs (Chapter 66, Article 5, Sec. 66-44);
      - 4. Traffic control and directional amenity signs (Chapter 66, Article 5, Sec. 66-45);
      - 5. Freestanding real estate signs that do not meet the requirements of Chapter 66, Article 5, Sec. 66-46;
      - 6. Political signs (Chapter 66, Article 5, Sec. 66-47);
      - 7. Public institutions, schools and churches (Chapter 66, Article 5, Sec. 66-48);
      - 8. Miscellaneous signs (Chapter 66, Article 5, Sec. 66-52);
    - b. *Signs Authorized Specifically in the Old Town Helotes Subdistricts.* The following sign requirements shall replace those of Chapter 66, Article 5, Secs. 66-49 thru 66-51.
      - 1. Commercial Signs: Single-Business or Multi-Tenant Shopping Center, Business Park, or Office Complex (Monument-Type)

- i. *Size.* The surface area of the sign shall not exceed 20 square feet, including the sign face, framing, and mounting hardware.
  - ii. *Height.* No part of the sign shall extend above five feet from average grade, including a base which is not less than 18 inches above the average grade.
  - iii. *Number.* One sign for each street frontage on which the building abuts. Not allowed in conjunction with a wall sign on the same frontage.
  - iv. *Location.* On premises of the business or office and adjacent to major traffic way which the building abuts, subject to the required clear vision area.
  - v. *Design.* The monument sign design should contain the address where it is located, but the address may be placed on the sign frame or face. The base of the monument sign shall have a minimum height of 18 inches in a landscaped setting, and any design shall be shown not to create a traffic hazard.
  - vi. *Lighting.* Indirect or internally illuminated.
  - vii. *Landscaping.* Shall be as follows:
    - 1) A landscaped area shall extend a minimum of two feet from each face around the base of the sign subject to the granting of an exception by the Planning and Zoning Commission if justified by unusual site conditions;
    - 2) All landscaped areas shall be maintained in a healthy, neat and clean condition;
    - 3) Any unhealthy or dead landscaping materials shall be replaced with comparable materials; and
    - 4) A plan showing the landscaping must be submitted to the Planning and Zoning Commission by the applicant.
2. *Commercial Signs – Projecting, Wall, Hanging, or In/On Windows.* Businesses may elect to have one of the following signs per street or pedestrian way which the building faces or abuts, with a maximum of two such signs. Such signs must be submitted to the Planning and Zoning Commission for review and approval prior to installation.
- i. *Wall Signs.* Wall signs by single businesses or an individual business in a multi-tenant shopping center, office complex, or business park shall be regulated as follows:
    - 1) *Area.* Wall signs shall have a maximum sign area of 32 square feet, including sign face, framing, and mounting hardware.
    - 2) *Height.* The top of the sign shall be below the eave line and at a height no greater than 20 feet above the ground immediately adjacent to the sign.
    - 3) *Number.* One sign per street or pedestrian way which the building faces or abuts, with a maximum of two signs.
    - 4) *Location.* All wall signs shall be installed flat against the wall of a building and shall not extend from the wall more than 12

inches. Not allowed in conjunction with a monument sign on the same frontage.

- 5) *Lighting.* Indirect, internally illuminated, or neon.
  - 6) An individual business with a basement entrance with no calculable frontage may have one wall sign with a maximum area of six square feet.
- ii. *Projecting and Hanging Signs.* Hanging commercial signs may be used by single-businesses or an individual business in a multi-tenant shopping center, office complex, or business park and shall be regulated as follows:
- 1) *Area.* Hanging signs shall have a maximum sign area of 24 square feet, including sign face, framing, and mounting hardware.
  - 2) *Height.* No part of the sign shall extend below eight feet from the average grade nor shall it extend above the eave line of the building to which it is attached.
  - 3) *Number.* One sign per street or pedestrian way which the building faces or abuts, with a maximum of two signs.
  - 4) *Lighting.* Indirect, internally illuminated, or neon.
  - 5) *Special Provisions.* Projecting and hanging signs must hang from a structural element of the exterior wall, awning, or overhang.
- iii. *Commercial Signs In or On Windows/Doors.* Commercial signs in or on windows or doors or window signs may be used by single-businesses or an individual business in a multi-tenant shopping center and shall be regulated as follows:
- 1) *Size.* A maximum area of eight square feet or no more than one-half the area of the window or door, whichever is smaller, including sign face, framing, and mounting hardware. A maximum area of six square feet is allowed if the area of the window or door is less than 12 square feet. Area used for the business address, hours of operation, and open or closed status is excluded from the maximum size limit.
  - 2) *Height.* No part of the sign shall extend above eight feet from the average grade, unless a greater height is necessary to center the sign in the window.
  - 3) *Number.* One sign per street or pedestrian way which the building faces or abuts.
  - 4) *Location.* In or on the window or door and entirely within the perimeter of the window or door.
  - 5) *Lighting.* Indirect, internally illuminated, or neon.
3. Off-Premises Signs.



- i. Off-premise signs located in the right-of-way for wayfinding purposes only are permitted provided the design of such signs is consistent with the concepts set out in the Old Town Helotes Plan.
  - ii. Pole-mounted or freestanding signs may be erected off-premises, provided they are used solely for area-wide wayfinding purposes.
  - iii. Pole-mounted and freestanding signs shall have a maximum sign area of 20 square feet, regardless of whether they are off-premises or on-premises or used for way finding or advertising purposes.
- (7) Creative Sign Review.
  - a. *Purpose.* This section establishes standards and procedures for the design, review and approval of creative signs in Old Town Helotes. Creative signs that meet the character and intent of the Old Town Helotes Plan may be permitted upon the approval of the City Council. The purposes of this creative sign program are to:
    - 1. Encourage signs of unique design, and that exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
    - 2. Provide a process for the application of sign regulations in ways that will allow creatively-designed signs that make a positive visual contribution to the overall image of Old Town Helotes, while mitigating the impacts of large or unusually designed signs.
  - b. *Applicability.* An applicant may request approval of a sign permit under the creative sign program to authorize on-site signs that employ standards that differ from the other provisions of this paragraph G., but comply with the provisions of this paragraph 7.
  - c. *Approval Authority.* A sign permit application for a creative sign shall be subject to review by the Planning and Zoning Commission and approval by the City Council.
  - d. *Design Criteria.* In approving an application for a creative sign, the Planning and Zoning Commission and City Council shall ensure that a proposed sign meets the following design criteria:
    - 1. *Design quality.* The sign shall:
      - i. Constitute a substantial aesthetic improvement to the site and shall have a positive visual impact on the surrounding area;
      - ii. Be of unique design, and exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
      - iii. Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, and proportion.
    - 2. *Contextual criteria.* The sign shall contain at least one of the following elements:
      - i. Classic historic design style;
      - ii. Creative image reflecting current or historic character of Old Town Helotes;
      - iii. Inventive representation of the use, name or logo of the structure or business.

3. *Architectural criteria.* The sign shall:
    - i. Utilize and/or enhance the architectural elements of the building; and
    - ii. Be placed in a logical location in relation to the overall composition of the building's facade and not cover any key architectural features/details of the facade.
  4. *Old Town Helotes Plan consistency.* The sign shall be consistent with the character and intent for Old Town Helotes, as described in the Old Town Helotes Plan.
- (8) *Review Procedures, Variances.* With the exception of Creative Sign Review, the administrative procedures of Chapter 66 shall apply to all signs; however, no variances shall be granted in any OTH subdistrict except through the creative sign review provisions above.
  - (9) *Sign Design Review Guidelines.* The sign design guidelines in the Old Town Helotes Plan shall supplement those of Chapter 66.
  - (10) *Special Provisions.* Signs with Historic Significance – As long as building use does not change, any nonconforming sign in Old Town Helotes is grandfathered in perpetuity.
- (h) *Tree Preservation.* The tree preservation provisions of Chapter 94, Article I, shall apply. Further, any off-site tree mitigation planting required shall occur within the Old Town Helotes Special District.
  - (i) *Landscaping.* The landscape provisions of Chapter 94, Article II, shall apply, with the exception that only Texas native landscape materials may be planted in any OTH subdistrict for required landscaping purposes. Other accent plantings that are not required may be non-native. All interior planting areas for trees shall have a minimum width of six feet. Where the planting patterns described in the Old Town Helotes Plan, especially with respect to rural or informal planting, differ from the requirements of the landscape ordinance, the City shall consider the contents of the Plan to supersede the landscape ordinance. Where screening is required, plant materials shall be reasonably anticipated to provide an opaque screen within three years of planting, including those near parking areas.
  - (j) *Walkways.* All new development in OTH subdistricts shall be required to provide a detached walkway parallel to the street where such a facility does not already exist. All walkways shall comply with all applicable federal, state, and local accessibility laws, standards, and codes and be a minimum of four feet in width. The area between the walkway and the street shall be planted in native vegetation, especially groundcover or native grasses. Where the site is constrained due to existing buildings, a walkway adjacent to the road edge may be considered by the City Council.
  - (k) *Walls and Fences.* New walls and fences shall reflect traditional walls and fences in Old Town. Native rock and wood rail fences are encouraged. Concrete block, un-faced concrete, plastic, fiberglass, re-bar, iron, plywood, or mesh construction fences are not allowed for permanent use.
  - (l) *Exterior Lighting.* The exterior lighting provisions of Chapter 34, Article III, shall apply. Where the exterior lighting described in the Old Town Helotes Plan, especially with respect to rural character, differs from the requirements of the lighting ordinance, the City shall consider the contents of the Plan to supersede the lighting ordinance. Exterior lighting shall not interfere with the rural character of Old Town. Light impacts on adjacent properties shall be minimized by using fully-shielded fixtures and focused light sources. Washing an entire building façade with light is not allowed. All exterior lighting shall have an informal appearance. Formal

spacing or uniform alignment of street lights is not allowed. The height of street lights shall not exceed 16 feet. Paths and walkways shall be illuminated, where appropriate, with low-scale fixtures.

- (m) *Mechanical and Service Area Screening.* Mechanical areas, air handling equipment, compressors, satellite dishes, rainwater storage tanks, dumpsters, transformers, stand-alone utility boxes, and all other service areas shall be located to the side and rear of buildings to the maximum extent determined feasible by the City. Such areas shall be screened from view using landscaping, a fence, or other enclosure(s). Where landscaping is employed, plant materials shall be reasonably anticipated to provide an opaque screen within three years of planting.
- (n) *Overnight Outdoor Storage and Outdoor Display.* Overnight outdoor storage and outdoor display shall be limited in the OTH subdistricts.
  - (1) Defined.
    - a. Outdoor display is the outdoor display of products actively available for sale. Outdoor display shall not include merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers (such merchandise shall be considered outdoor storage).
    - b. Outdoor storage is the overnight outdoor storage of vehicles awaiting repair, RV and boat storage at a self-service storage facility, merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers, shopping carts, garden supplies, building supplies, plants, fleet vehicles and other similar merchandise, material or equipment. Outdoor storage shall also include salvage yards, vehicle storage yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.
  - (2) Allowed.
    - a. Outdoor display shall be allowed where all display materials are returned inside the building during hours the business is closed, excluding sculptures or other handcrafted pieces of art.
    - b. Overnight outdoor storage is permitted to the side or rear of a main building, provided it is completely screened from view using landscaping, a fence, or other enclosure. Where landscaping is employed, plant materials shall be reasonably anticipated to provide an opaque screen within three years of planting.
- (o) Review of Development.
  - (1) *Pre-Application Conference.* A pre-application conference may be held with the City of Helotes Economic Development Corporation (EDC). The EDC shall provide advice and assistance with regard to the approval of the proposed development and, especially, with regard to the contents of the Old Town Helotes Plan. A joint work session called by the EDC with various other Boards and Commissions is encouraged during the pre-application conference.
  - (2) *Traffic Impact Analysis.* A traffic impact analysis shall not be required for any development in the OTH subdistricts located west of Highway 16 (Bandera Road).
  - (3) Review Process.
    - a. City staff shall perform the initial review of all development.
    - b. The Economic Development Corporation shall be encouraged to comment on all submittals during the pre-application conference referenced above.

- c. The City Arborist shall review, and approve or deny all applications for tree removal, tree replacement, tree mitigation, and/or landscaping within the OTH subdistricts within 45 days of the application submittal.
  - d. The Planning & Zoning Commission shall review and make recommendations to the City Council regarding development within the OTH subdistricts within 45 days of the application (design) submittal to the Commission. The Planning and Zoning Commission shall review and approve or deny, barring variance requirements, all sign applications within 45 days of the application submittal to the Commission. The Planning & Zoning Commission shall review and make recommendations to the City Council regarding all plats within the OTH subdistricts within the timeframes established by state law. Any conditions imposed on a plat shall be limited to those required to bring the plat into compliance with state law and the City's requirements.
  - e. Once the review has been completed by City staff and the Commission, the City Council shall schedule its review at the next available regularly-scheduled City Council meeting. The City Council shall review and approve, approve with conditions, or deny all development applications within the OTH sub districts.
  - f. In making a decision regarding approval of the development, the following criteria shall be considered:
    - 1. The development is consistent with the content and design guidelines of the Old Town Helotes Plan;
    - 2. The development meets or exceeds the standards of the City regulations, including specifically, Chapter 98 (Zoning), Chapter 78 (Subdivisions), and any other supporting ordinance and regulations.
- (4) Minor Plat.
- a. A minor plat may be approved in any Old Town Helotes subdistrict in accordance with this section. A minor plat is any plat for four or fewer lots fronting on an existing street and not requiring the creation of any new street (not including drive aisles) or the extension of municipal facilities. Any plat that requires a waiver from subdivision design and improvement standards, any utility dedication, or any dedication of land shall not be processed as a minor plat.
  - b. The City Engineer (or designee) shall review the application and approve or approve with conditions the application.
  - c. The City Engineer (or designee) shall not deny a minor plat application -- a minor plat that does not meet the City's requirements shall be forwarded to the Planning & Zoning Commission for review and City Council for final action.
  - d. The minor plat shall not be recorded until it has been endorsed by the City Engineer (or designee).

(Ord. No. 297, §1, 1-26-2006; Ord. No. 339, §2, 5-12-07; Ord. No. 387, §1, 12-08-08)

Secs. 98-73 - 98-100. Reserved.

#### **ARTICLE IV. PARKING REGULATIONS**

**Sec. 98-101. Purpose.**

It is the purpose of this article to establish the guidelines for off-street parking space consistent with the proposed land use to:

- (1) Eliminate occurrence of nonresident on-street parking in adjoining neighborhoods;
- (2) Avoid the traffic congestion and public safety hazards caused by a failure to provide such parking space; and
- (3) Expedite the movement of traffic on public thoroughfares in a safe manner, increase the carrying capacity of the streets, and reduce the amount of land required for streets, and the cost to both the property owner and the city.

(Ord. No. 253, §1 (art. IV, §1), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

**Sec. 98-102. Number of parking spaces required.**

Use	Number of Parking Spaces Required
Dwelling units	2 / dwelling unit
Office	1 / 300 gross square feet
Retail	1 / 200 gross square feet
Restaurant	1 / 100 gross square feet
Health Club	1 / 100 gross square feet
Warehouse	1 / 500 gross square feet
Assembly	1 / 300 gross square feet
Medical office	1 / 200 gross square feet
Schools	1 / 3.5 seats in assembly rooms, plus 1 / faculty member
Hotels / Motels	1 / guest room, plus 1 / 500 square feet of common area
Industry	1 / 500 gross square feet

(Ord. No. 253, §1 (art. IV, §2), 4-8-2004; Ord. No. 381, §2, 10-23-2008; Ord. No. 387, §1, 12-8-2008)

### **Sec. 98-103. Computation of number of parking spaces.**

In computing the number of such parking spaces required, the following rules shall govern:

- (1) For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning: Floor area means gross floor area of the specific uses.
- (2) Where fractional spaces result, the parking spaces required shall be construed to be the next higher whole number.
- (3) When a building or use existing prior to the effective date of the chapter is enlarged in floor area, area used, seating capacity or otherwise, by ten percent or more over the capacity on the effective date of this chapter, the parking requirements set forth herein shall be complied with as follows: Whenever a building or use constructed or established after the effective date of this chapter is changed or enlarged in floor area, seating capacity or otherwise to create a deficiency in parking spaces as set forth herein of ten percent or more such spaces shall be provided as required to effect 100 percent compliance with the parking requirements set forth herein.

(Ord. No. 253, §1 (art. IV, §3), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

### **Sec. 98-104. Location of parking spaces; cooperative parking plan.**

All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located not to exceed 300 feet from an institutional building served and not to exceed 500 feet from any other non-residential building served.

- (1) *Churches.* Up to 100 percent of the parking spaces required for a church or church school auditorium may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used, or operated during the same hours; provided however, that written agreement therefor is properly executed and filed as specified in subsection (2).
- (2) *Written agreement.* In any cases where the required parking spaces are not located on the same lot or contiguous with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the city attorney, and shall be filed with the application for a building permit. The agreement shall identify the entire land area to be included within the cooperative parking plan, the owner or owners of all structures then existing on such land area, and all parties having a legal interest in such land area and structure. Sufficient evidence to establish the status of applicants as owners or parties in interest shall be provided. The application shall include plans showing the location of the uses or structures for which off-street parking facilities are required and the schedule of times used by those sharing in common.
- (3) *Registration of cooperative parking plan.* Upon approval of the plan, a copy of such plan shall be registered with the building permit.

- (4) *Amendment or withdrawal of cooperative parking plan.* Pursuant to the same procedure and subject to the same limitations and requirements by which the cooperative parking plan was approved and registered, any such plan may be amended or withdrawn, either partially or completely, if all the conditions and limitations of the plan and all land and structures withdrawn from such plan comply with parking regulations.

(Ord. No. 253, §1 (art. IV, §4), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-105. Development and maintenance of parking areas.**

Every parcel of land hereafter used as public parking area, including commercial parking lots and automobile, farm equipment or other open-air sales lots, shall be developed and maintained in accordance with the following requirements:

- (1) *Drainage and surfacing; maintenance.* Areas shall be properly graded for drainage, surfaced with concrete, asphaltic concrete, or asphalt and maintained in good condition, and free of weeds, dust, trash, and debris.
- (2) *Wheel guards.* Boundary or perimeter areas shall be provided with wheel guards or bumper guards, so located that no part of parked vehicles will extend beyond the property line of the parking area.
- (3) *Lighting.* Any lighting used to illuminate an off-street parking area shall be arranged so as to direct or shield the light away from the adjoining premises in any residential district and so it does not interfere with traffic.
- (4) *Entrances and exits.* Facilities shall be provided with entrances and exits so located as to minimize traffic congestion.
- (5) *Prohibition of other uses.* Facilities shall not be used for the repair, dismantling or servicing of any vehicle, equipment, materials or supplies.
- (6) *Dimensions of parking spaces.* Each off-street parking space shall be a minimum of nine feet wide and have not less than 180 square feet, exclusive of access or maneuvering area, ramps and other appurtenances.
- (7) *Number of parking spaces.* The number required shall be determined from the table in section 98-102. The classification of uses referred to shall be deemed to include and apply to all uses.

(Ord. No. 253, §1 (art. IV, §5), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-106. Off-street loading regulations.**

Every building or part thereof erected or occupied for retail or wholesale service, manufacturing, storage, warehouse, hotel, mortuary, or any other use similarly involving the receipt or distributing of materials or merchandise shall provide and maintain, on the same premises, loading space in accordance with the following regulations:

- (1) *Types.* Based on the business need there shall be two sizes of off-street truck loading spaces designated "large" and "small."
  - a. *Large spaces.* Each "large" space shall have an overhead clearance of at least 14 feet, shall be at least 12 feet wide, and shall be at least 50 feet long, exclusive of access or maneuvering area, platform, and other appurtenances.

- b. *Small spaces.* Each "small" space shall have an overhead clearance of at least ten feet, shall be at least eight feet wide and shall be at least 20 feet long, exclusive of access or maneuvering area, platform and other appurtenances.
- (2) *Location.* Off-street truck loading facilities shall be located such that:
  - a. Trucks will not extend into a public street while positioning to or parking at the loading dock;
  - b. Trucks will not block any fire lane while at the dock.
- (3) *Development and maintenance of off-street loading.* Off-street truck loading facilities shall be constructed, maintained and operated in accordance with the following specifications:
  - a. *Drainage and surfacing; maintenance.* Areas shall be properly graded for drainage, surfaced with concrete, or asphaltic concrete, or asphalt, and maintained in good condition, free of weeds, dust, trash and debris.
  - b. *Protective screen fencing.* Areas shall be provided with protective screen fencing such that occupants of adjacent structures are not unreasonably disturbed during the night by the movement of vehicle lights.
  - c. *Lighting.* Lighting facilities shall be so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic.
  - d. *Entrances and exits.* Areas shall be provided with entrances and exits so located as to minimize traffic congestion.
- (4) *Minimum loading spaces required.* The minimum number of truck loading spaces for structures containing the uses enumerated for B-2, B-3, B-4 and I-1 districts shall be:

<b>Gross Floor Area in Structure (square feet)</b>	<b>Minimum Number of Spaces and Type</b>
0 to 15,000	1 small or 1 large
15,000 to 30,000	2 small or 2 large or combination
30,001 to 50,000	2 large
50,001 to 100,000	3 large
For each additional 50,000	1 large

(Ord. No. 253, §1 (art. IV, §6), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

Secs. 98-107--98-130. Reserved.



## **ARTICLE V. SPECIFIC CITY COUNCIL APPROVAL USE PERMIT**

### **Sec. 98-131. Authorized uses.**

The City Council, after public hearing and proper notice to all parties affected in accordance with the notice procedures prescribed under article XII of this chapter for amending the zoning code, and after recommendation by the Planning and Zoning Commission, may authorize the issuance of a specific use permit for zoning a specific use at a specific location within the zoning district identified within the schedule by a "CC." (Ord. No. 253, §1 (art. V, §1), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

### **Sec. 98-132. Development standards.**

- (a) The Planning and Zoning Commission in considering and determining their recommendation and the City Council in considering any request for a specific City Council use permit may require from the applicant plans, information, operating date and expert evaluation concerning the location, function and characteristics of any building or use proposed. The commission may recommend additional restrictions or conditions to carry out the spirit and intent of this chapter and to mitigate adverse effects of the proposed use. These requirements may include, but are not limited to, increased open space, loading and parking requirements, suitable landscaping and additional improvements such as curbing and sidewalks.
- (b) The City Council may in compliance with this chapter establish conditions of operations, location, arrangement and construction of any use for which a permit is authorized. In authorizing the location of any of the uses listed as specific City Council approval use permits, the City Council may impose such development standards and safeguards as the conditions and location indicate important to the welfare and protection of adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, expulsion, glare, offensive view or other undesirable or hazardous conditions.

(Ord. No. 253, §1 (art. V, §2), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

### **Sec. 98-133. Temporary construction buildings and storage areas; temporary subdivision sales offices.**

- (a) Temporary construction buildings and storage areas. Temporary buildings and temporary building material storage areas to be used for construction purposes may be permitted for a specified period of time in accordance with the building permit. Upon completion, abandonment of construction or expiration of permit, such field offices and buildings shall be removed within 30 days, or at the direction of the city building inspector.
- (b) Temporary subdivision sales office. A temporary subdivision sales office, if otherwise permissible under this chapter, may be erected or prefabricated for use for a six-month period of time. An on-site subdivision sales office shall require a city permit renewable every six months.

(Ord. No. 253, §1 (art. V, §3), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

**Sec. 98-134. Temporary development signs.**

Temporary development and promotional signs shall comply with the Sign Regulation Ordinance of the city (chapter 66). (Ord. No. 253, §1 (art. V, §4), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

**Sec. 98-135. Distribution of copies of permit.**

One copy of the City Council approved specific use permit shall be delivered to the owner of the property, one copy shall be filed in the office of city secretary, one copy to the building inspector, and one copy to each member of the Planning and Zoning Commission. (Ord. No. 253, §1 (art. V, §5), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

**Sec. 98-136. Compliance with permit; expiration of permit.**

Following the issuance of a City Council approved specific use permit, the building inspector shall insure that, if the development is undertaken, it is completed in compliance with the permit. However, if a specific use permit has not been used within six months (180 calendar days) after the date approved by the City Council, the permit is automatically cancelled, which fact shall be noted over the signature of the building official on the file copies of the permit, and the owner shall be so notified in writing by the building inspector. (Ord. No. 253, §1 (art. V, §6), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

Secs. 98-137 - 98-160. Reserved.

**ARTICLE VI. PLANNED RESIDENTIAL UNIT DEVELOPMENT****Sec. 98-161. Purpose.**

It may be desirable that some properties in the city be developed in accordance with site plans prepared and approved in advance of development. To encourage such planned unit development, regulatory provisions are provided in sections 98-162 and 98-163. (Ord. No. 253, §1 (art. VI, §1), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

**Sec. 98-162. Authorized uses.**

Whenever any property is designed as being within the planned residential unit development, the following types of uses may be authorized:

- (1) Housing development consistent with area zoning on tracts with a minimum of 20 acres.
- (2) Uses permitted in the neighborhood service district, on tracts with a minimum area of two acres and when an integral part of a planned residential unit development.
- (3) Recreation area/open space.
- (4) A combination of any of the developments listed or other uses permitted in the zoning districts corresponding to property on the zoning district map.

(Ord. No. 253, §1 (art. VI, §2), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

**Sec. 98-163. Site plan; procedures.**

- (a) A site plan setting forth the uses to be incorporated into the planned residential unit development shall be approved and filed as part of the ordinance. The provisions of article XII of this chapter shall govern the review and processing of each application for a planned residential unit development.

- (b) Such required site plan shall show the provisions for ingress and egress to the property, access from a public street, number and type of housing units proposed, sidewalks, utilities, drainage, parking space, height of buildings, maximum lot coverage, yards and open spaces, screening walls or fences and other development and protective requirements considered necessary to create a reasonable transition and protection of the adjacent property.
- (c) The Planning and Zoning Commission may recommend that the City Council impose conditions relative to the standards of development and as a part of the planned residential unit development zoning.
- (d) Site plans submitted for consideration under the provisions of subsections (a) and (b) may be altered or amended with approval of the Planning and Zoning Commission, but any change in the development shall be considered an amendment to the zoning chapter and shall be processed in accordance with article XII of this chapter.

(Ord. No. 253, §1 (art. VI, §3), 4-8-2004; Ord. No. 387, §1, 12-8-2008)

Secs. 98-164 - 98-190. Reserved.

## **ARTICLE VII. NONCONFORMING USES & STRUCTURES**

### **Division 1. Nonconforming Uses.**

#### **Sec. 98-191. Continuation of use.**

Any nonconforming use of land may be continued in present use indefinitely and is transferable. If, however, a continuous operation is not carried on in such nonconforming use during a continuous period of one year, the building, the structure, or tract of land where the nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operation shall not affect the foregoing. (Ord. No. 253, §1 (art. VII, §1), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 498, §1, 03-14-2013)

#### **Sec. 98-192. Change of use.**

A nonconforming use may be changed to any conforming use. A nonconforming use shall not be changed to any other type of nonconforming use. (Ord. No. 253, §1 (art. VII, §2), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 387, §1, 12-8-2008; Ord. No. 498, §1, 03-14-2013)

**Sec. 98-193. Damage and destruction.**

A nonconforming use occurring within a building or structure shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause. In the case of partial destruction, not exceeding 50 percent (50%) of the building or structure's value, the Development Services Department shall issue a permit for reconstruction. If greater than 50 percent (50%) of the building or structure's value, the building or structure shall be brought into compliance or a zoning variance requested through the Board of Adjustment. (Ord. No. 253, §1 (art. VII, §3), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 387, §1, 12-8-2008; Ord. No. 498, §1, 03-14-2013)

**Sec. 98-194. Enlargement.**

A nonconforming use shall not be enlarged or extended with respect to the operation of the use in a building or structure, except in compliance with zoning requirements for that district. (Ord. No. 253, §1 (art. VII, §4), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 498, §1, 03-14-2013)

**Sec. 98-195. Normal maintenance.**

Normal maintenance of a building or structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations not extending the operation of the nonconforming use. (Ord. No. 253, §1 (art. VII, §5), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 387, §1, 12-8-2008; Ord. No. 498, §1, 03-14-2013)

**Sec. 98-196. Structural changes.**

No structural alteration shall be made in a building or other structure containing a nonconforming use, except that required by law. (Ord. No. 253, §1 (art. VII, §6), 4-8-2004; Ord. No. 387, §1, 12-8-2008; Ord. No. 387, §1, 12-8-2008; Ord. No. 498, §1, 03-14-2013)

Secs. 98-197 - 98-210. Reserved.

**Division 2. Nonconforming Structures.****Sec. 98-211. Limitation on regulations.**

No structure, otherwise in accordance with the provisions of these regulations or an amendment hereto, shall be rendered or be deemed a nonconforming structure solely for a failure to comply with provisions relating to signs. (Ord. No. 498, §1, 03-14-2013)

**Sec. 98-212. Continuance of nonconforming structures.**

Subject to all limitations herein set forth, any nonconforming structure may be occupied and operated and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions herein established for structures in the district in which the nonconforming structure is located. (Ord. No. 498, §1, 03-14-2013)

**Sec. 98-213. Accidental damage to building.**

If a nonconforming structure is destroyed by fire or the elements, it may not be reconstructed or rebuilt except to conform to the provisions contained herein. In the case of partial destruction by fire or other causes, not exceeding 50 percent (50%) of the structures value, the Development Services Department may issue a permit for reconstruction. If greater than 50 percent (50%) of the structures value, the

Board of Adjustment may grant a permit for repair but not for the enlargement of the structure. (Ord. No. 498, §1, 03-14-2013)

**Sec. 98-214. Obsolescence of structure.**

The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure becomes obsolete or substandard under any applicable Code of the City and the cost of placing such structure in lawful compliance with the applicable regulation exceeds 50 percent (50%) of the replacement cost of such structure on the date that the Building Official, Code Enforcement Officer, and/or City Administrator determines that such structure is obsolete or substandard. (Ord. No. 498, §1, 03-14-2013)

**Sec. 98-215. Determination of replacement costs.**

In determining the replacement cost of any nonconforming structure, there shall not be included therein the cost of land or any factors other than the nonconforming structure itself. (Ord. No. 498, §1, 03-14-2013)

**Sec. 98-216. Alterations.**

The Board of Adjustment may grant, as a special exception, an application to extend or enlarge a nonconforming structure, provided such grant does not serve to prevent the return of such structure to a conforming structure in the future. (Ord. No. 498, §1, 03-14-2013)

Secs. 98-217 - 98-220. Reserved.

## **ARTICLE VIII. SEXUALLY ORIENTED BUSINESSES**

**Sec. 98-221. Purpose.**

It is the purpose of this article to promote the public health, safety and welfare of the citizens of the city and to prevent the concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction of the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the Constitution of the United States of America, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. However it is the intent of the City Council that locational restrictions are promulgated to address adverse secondary effects of sexually oriented businesses. (Ord. No. 266, §1, 10-14-2004; Ord. No. 387, §1, 12-8-2008)

## **Sec. 98-222. Definitions.**

Definitions which apply to this article are as follows:

*Adult cabaret* means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity; or
- (2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

*Adult motel* means a hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than ten hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

*Adult movie theater* means a commercial establishment the primary business of which is the offering or showing, for any form of consideration, of films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

*Adult novelty store, adult bookstore or adult video store* means a commercial establishment wherein 40 percent or more of the displayed inventory which is offered for sale or rental for any form of consideration includes one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, DVDs or video reproductions, slides, or other photographic reproductions which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities"; or
- (3) Any other items intended to provide sexual stimulation or sexual gratification to the customer.

A business that does not make on-premise sales of the above noted goods is not subject to the provisions of this article.

*Adult theater* means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas."

*Adult video arcade or adult movie arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video tape players or recorders, video reproduction devices or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

*Chief of police* means the chief of police of the city or his designated agent.

*Escort* means a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

*Escort agency* means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

*Establishment* means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

*Nude model studio, nude studio or love parlor* means any place where a person who appears in the state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

*Nudity or a state of nudity* means:

- (1) The appearance of a human bare buttocks, anus, male genitals, female genitals, or female breast; or
- (2) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals or areola of the female breast.

*Person* means an individual, proprietorship, partnership, corporation, association, or other legal entity.

*Residential district* means a single-family, two-family, multiple-family or mobile home district included in the city zoning districts R-1, R-2 or R-3.

*Residential use* means a single-family, two-family, multiple-family, or mobile home district use which is located within the city zoning districts R-1, R-2 or R-3. "Residential use" shall also include existing single-family, two-family, multiple-family, or mobile home districts, if in such use as of March 1, 1993, regardless of the zoning district where located.

*Semi-nude* means a state of dress in which clothing covers no more than the genitals, pubic region, and areolas of the female breast, as well as portions of the body covered by supporting straps or devices, and/or displays commonly known as "G-strings," "pasties," or "wet T-shirt contest," and any similar such devices and/or displays.

*Sexual encounter center* means a business or commercial enterprise that, as its primary business purpose, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the same sex and/or the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons are in a state of nudity or are semi-nude.

*Sexually oriented business* means an adult movie arcade, adult video arcade, adult novelty store, adult bookstore, adult video store, adult cabaret, adult motel, adult movie theater, adult theater, escort agency, nude studio, nude model studio, love parlor or sexual encounter center, or any other commercial enterprise, the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification of the customer.

*Specified anatomical areas* means human genitals in a state of sexual arousal.

*Specified sexual activities* means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

- (2) Sex acts, actual or simulated, including intercourse, or copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) above.

*Substantial enlargement of a sexually oriented business* means the increase in floor area occupied by the business by more than 25 percent, as the floor area exists on March 1, 1993.

*Transfer of ownership or control of a sexually oriented business* means and includes any of the following:

- (1) The sale, lease or sublease of any property, or any portion thereof, used for or in relation to any such business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. No. 266, §1(1), 10-14-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-223. Location.**

- (a) A person commits an offense if he operates or causes to be operated a sexually oriented business within 750 feet of any real property boundary line of:
  - (1) Any church, synagogue and/or any other public place of worship;
  - (2) Any public or private pre-school, elementary and/or secondary school, educational center or facility, youth activity center, or facility;
  - (3) Any public library;
  - (4) City hall;
  - (5) Any public park; or
  - (6) Any lot devoted to a residential use as defined in this article.
- (b) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 750 feet of any real property boundary line of another sexually oriented business.
- (c) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building structure, or portion thereof containing another sexually oriented business.
- (d) For the purposes of subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the real property boundary line of an affected church, public or private elementary school, public park, residential district or residential lot.
- (e) For the purposes of subsection (b) of this section, the distance between any two sexually oriented businesses shall be measured, in a straight line, without regard to intervening structures or objects, from the closest portion of the real property of any property boundary line on which each business is located.
- (f) Any sexually oriented business lawfully operating on March 1, 1993, or on the date such use is annexed, that is in violation of subsection (a) or subsection (b) of this section, shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed three years, unless sooner terminated for any reason or voluntarily discontinued for a period of 180 days or more. Such nonconforming uses shall not be increased, enlarged,



extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 750 feet of each other, as defined in subsection (b) of this section, and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at that particular location is the conforming use and the later-established business(es) is (are) the nonconforming.

- (g) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the lawful opening of such a business, of a public place of worship, school, public or private pre-school, elementary or secondary school, youth activity center, public park, residential district, residential use, or the city hall within 750 feet of the sexually oriented business as defined in this article.

(Ord. No. 266, §1(2), 10-14-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-224. Administrative procedures.**

- (a) *Survey required.* Any person who desires to establish a sexually oriented business as defined in this article shall first provide a survey under seal to the city administrator to establish that the business is at least 750 feet from a lot devoted to residential use or district zoned for residential use, a public place of worship, a public or private pre-school, elementary or secondary school, youth activity center, public library, public park or the city hall.
- (b) *Fee.* In addition to the survey, the applicant shall pay a non-refundable fee as prescribed in the most recent adopted fee schedule passed and approved by the City Council to offset the costs of the city's investigation to confirm that the proposed location is more than 750 feet from the protected uses established above. (Ord. No. 394, §10, 2-12-2009)
- (c) *Investigation.* The city administrator shall complete the investigation herein provided for and notify the applicant of the result not more than 20 business days after receiving the sealed survey and application fee.
- (d) *Rejection of application.* If the application is rejected, the city administrator shall provide a letter that specifies the reason(s) for denial, and the applicant shall have 30 days to either appeal the decision of the city administrator to the City Council or seek review in a court having jurisdiction of such matter. If no appeal is made, the decision of the city administrator is final.
- (e) *Application for certificate of occupancy.* Subsequent to the verification of the sealed survey herein required, the applicant may apply for a certificate of occupancy which shall be issued in conformance with this Code within 20 business days of application therefor. If upon inspection the premises do not meet the Code requirements, the building inspector shall notify the applicant of the specific reasons for denial, in writing. Provided, however, the applicant may request one 20-business-day extension of the application if the request is in writing and received by the building inspector prior to the expiration of the initial 20-business-day period established herein for issuance of the certificate of occupancy. The fee for a certificate of occupancy shall be in accordance with the fee schedule of the city.
- (f) *Appeal of denial of certificate of occupancy.* If the certificate of occupancy is denied by the building inspector, the applicant shall have 30 days to either appeal the decision to the City Council or seek review in a court having jurisdiction of such matter. If no appeal is made, the decision of the building inspector is final.

(Ord. No. 266, §1(3), 10-14-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-225. Enforcement; penalty; defenses.**

- (a) Violation of section 98-223 is punishable as a Class C misdemeanor with a fine of not less than \$25.00 nor more than \$2,000.00 upon conviction, and each day such violation continues shall

be deemed a separate offense and punishable as such.

- (b) It is a defense to prosecution under section 98-223 that a person appearing in a state of nudity did so in a modeling class operated:
  - (1) By a preparatory school licensed by the State of Texas; or a college, junior college, or university supported entirely or partly by taxation;
  - (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
  - (3) In a structure:
    - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
    - b. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
    - c. Where no more than one nude model is on the premises at any one time.
- (c) It is a defense to prosecution under section 98-223 that each item of descriptive, painted, film, or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political or scientific value.

(Ord. No. 266, §1(4), 10-14-2004; Ord. No. 387, §1, 12-8-2008)

#### **Sec. 98-226. Injunction.**

A person who operates or causes to be operated a sexually oriented business in violation of section 98-223 and/or any other section of this article is subject to a suit for injunction to prohibit violation, in addition to prosecution for criminal violations under section 98-225. (Ord. No. 266, §1(5), 10-14-2004; Ord. No. 387, §1, 12-8-2008)

Secs. 98-227 - 98-250. Reserved.